98TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
98-1156

TRADE AND TARIFF ACT OF 1984

OCTOBER 5, 1984.—Ordered to be printed

Mr. ROSTENKOWSKI, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 3398]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendments of the Senate to the bill (H.R. 3398) to amend the trade laws, authorize the negotiation of trade agreements, extend trade preferences, change the tariff treatment with respect to certain articles and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act with the following table of contents may be cited as the "Trade and Tariff Act of 1984":

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

Sec. 101. Reference.

Subtitle B—Permanent Changes in Tariff Treatment

Sec. 111. Coated textile fabrics.
Sec. 112. Warp knitting machines.
Sec. 113. Certain gloves.
Sec. 114. Pet toys.
Sec. 115. Water chestnuts and bamboo shoots.
Sec. 116. Gut for use in manufacture of sterile surgical sutures.
Sec. 117. Orange juice products.
Sec. 118. Reimportation of certain articles originally imported duty free.

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Sec. 119. Geophysical equipment.
Sec. 120. Scrolls or tablets used in religious observances.
Sec. 121. Steel pipes and tubes used in lampposts.
Sec. 122. Wearing apparel.
Sec. 123. Recently developed dairy products.
Sec. 124. Telecommunications product classification.
Sec. 125. Fresh asparagus.
Sec. 126. Chipper knife steel.
Sec. 127. Implementation of customs convention on containers, 1972.

Subtitle C—Temporary Changes in Tariff Treatment

Sec. 131. Fresh, chilled, or frozen brussels sprouts.
Sec. 132. β-naphthol.
Sec. 133. 4-chloro-3-methylphenol.
Sec. 134. Tetraamino biphenyl.
Sec. 135. 6-amino-1-naphthol-3-sulfonic acid.
Sec. 136. DSA.
Sec. 137. Guanidines.
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Sec. 139. Acetylsulfaguanidine.
Sec. 140. Fenridazon-potassium.
Sec. 141. Uncompounded allyl resins.
Sec. 142. Sulfamethazine.
Sec. 143. Sulfaguanidine.
Sec. 144. Terfenadine.
Sec. 145. Sulfathizole.
Sec. 146. Sulfaquinoxaline and sulfanilamide.
Sec. 147. Dicyclomine hydrochloride and mepenzolate bromide.
Sec. 148. Amiodarone.
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Sec. 150. Clomiphene citrate.
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Sec. 153. Certain mixtures of magnesium chloride and magnesium nitrate.
Sec. 154. Nicotine resin complex.
Sec. 155. Rifampin.
Sec. 156. Lactulose.
Sec. 157. Iron-dextran complex.
Sec. 158. Natural graphite.
Sec. 159. Zinc.
Sec. 160. Certain diamond tool blanks.
Sec. 161. Clock radios.
Sec. 162. Lace-braiding machines.
Sec. 163. Certain magnetron tubes.
Sec. 164. Narrow fabric looms.
Sec. 165. Umbrella frames.
Sec. 166. Crude feathers and down.
Sec. 167. Canned corned beef.
Sec. 168. Hovercraft skirts.
Sec. 169. Disposable surgical drapes and sterile gowns.
Sec. 170. MXDA.
Sec. 171. 4,4'-Bis(a,α-dimethylbenzyl) diphenylamine.
Sec. 172. Flecainide acetate.
Sec. 173. Caffeine.
Sec. 174. Watch crystals.
Sec. 175. Unwrought lead.
Sec. 176. Flat knitting machines.
Sec. 177. Certain menthol feedstocks.
Sec. 178. 2-methyl—4-chlorophenol.
Sec. 179. Unwrought alloys of cobalt.
Sec. 180. Circular knitting machines.
Sec. 181. o-Benzyl-p-chlorophenol.
Sec. 182. Certain benzenoid chemicals.
Sec. 183. m-Tolric acid.

Subtitle D—Technical Amendments

Sec. 181. Technical and conforming amendments.

Subtitle E—Effective Dates

Sec. 191. Effective dates.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

Sec. 201. Reference.
Sec. 202. Drawback.
Sec. 203. Public disclosure of certain manifest information.
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Sec. 211. Operation of certain duty-free sales enterprises.
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Subtitle B—Small Business Trade Assistance

Sec. 221. Establishment of trade remedy assistance office in the United States International Trade Commission.

Subtitle C—Miscellaneous Provisions

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Sec. 241. Duty-free entry for research equipment for North Dakota State University, Fargo, North Dakota.
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TITLE IV—TRADE WITH ISRAEL

Sec. 401. Negotiation of trade agreements to reduce trade barriers.
Sec. 402. Criteria for duty-free treatment of articles.
Sec. 403. Application of certain other trade law provisions.

Sec. 404. Fast track procedures for perishable articles.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES RENEWAL

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Sec. 502. Consideration of a beneficiary developing country's competitiveness in extending preferences.
Sec. 503. Amendments relating to the beneficiary developing country designation criteria.
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Sec. 505. Limitations on preferential treatment.
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Sec. 507. Agricultural exports of beneficiary developing countries.
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TITLE VI—TRADE LAW REFORM

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Sec. 604. Termination or suspension of investigation.
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TITLE VII—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS AND TRADE AGENCIES

Sec. 701. United States International Trade Commission.
Sec. 702. United States Customs Service.
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TITLE VIII—ENFORCEMENT AUTHORITY FOR THE NATIONAL POLICY FOR THE STEEL INDUSTRY

Sec. 801. Short title.
Sec. 802. Finding and purposes.
Sec. 803. Sense of Congress regarding the national policy for the steel industry.
Sec. 804. Definitions.
Sec. 805. Enforcement authority.
Sec. 806. Effective period of title.
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Sec. 808. Effective date.

TITLE IX—ELIMINATION OF BARRIERS TO INTERNATIONAL TRADE IN UNITED STATES WINE

Sec. 901. Short title.
Sec. 902. Congressional findings and purposes.
Sec. 903. Definitions.

Sec. 904. Designation of major wine trading countries.
Sec. 905. Actions to reduce or eliminate tariff and nontariff barriers affecting United States Wine.
Sec. 906. Required consultations.
Sec. 907. United States wine export promotion.

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, headnote or other provision, the reference shall be considered to be made to a schedule, item, headnote or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

Subtitle B—Permanent Changes in Tariff Treatment

SEC. 111. COATED TEXTILE FABRICS.

(a) Headnote 5 of schedule 3 is amended to read as follows:

"5. (a) Except as otherwise provided in subsection (b) of this headnote, for the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except subpart A), 4, and 12 of schedule 7, in determining the classification of any article which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in part 4C of this schedule), the fabric shall be regarded not as a textile material but as being wholly of rubber or plastics to the extent that (as used in the article) the nontransparent rubber or plastics forms either the outer surface of such article or the only exposed surface of such fabric.

"(b) Any fabric described in part 4C of this schedule shall be classified under part 4C whether or not also described elsewhere in the schedules.".

(b) The headnotes to subpart C of part 4 of schedule 3 are amended—

(1) by striking out clause (vii) in headnote 1; and

(2) by inserting "or value" after "quantities" in headnote 2(c).

(c) Part 12 of schedule 7 is amended by inserting immediately after headnote 1 the following new headnote:

"2. This part does not cover fabrics, coated or filled, or laminated, with rubber or plastics provided for in part 4C of schedule 3.".

SEC. 112. WARP KNITTING MACHINES.

(a) Subpart E of part 4 of schedule 6 is amended by striking out item 670.20 and inserting in lieu thereof the following new items with article descriptions at the same indentation level as the article description in item 670.19:

"670.20	*Warp knitting machines*	*Free*		*40% ad val.*
670.21	*Other*	*5.6% ad val.*	*4.2% ad val.*	*40% ad val.".*

(b) Item 912.14 of the Appendix is repealed.

(c)(1) The rate of duty in column numbered 1 for item 670.21 (as added by subsection (a)) shall be subject to all staged rate reductions

for item 670.20 that were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 670.21 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 113. CERTAIN GLOVES.

Subpart C of part 1 of schedule 7 is amended—

(1) by amending headnote 1—

(A) by striking out "and" at the end of paragraph (a),

(B) by striking out the period at the end of paragraph (b) and inserting, "; and", and

(C) by adding at the end thereof the following new paragraph:

"(c) the term 'with fourchettes' includes only gloves which, at a minimum, have fourchettes extending from fingertip to fingertip between each of the four fingers."; and

(2) by amending item 705.85 by striking out "textile fabric" and "or sidewalls".

SEC. 114. PET TOYS.

Subpart A of part 13 of schedule 7 is amended by inserting immediately after item 790.55 the following new item:

"790.57	*Toys for pets, of textile materials*	*8.5% ad val.*		*80% ad val.".*

SEC. 115. WATER CHESTNUTS AND BAMBOO SHOOTS.

(a) Items 903.45, 903.50, and 903.55 are repealed.

(b) Subpart A of part 8 of schedule 1 is amended as follows:

(1) Item 137.84 is amended by striking out "25% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 138.40 is amended by striking out "17.5% ad val." in column 1 and inserting in lieu thereof "Free".

(c) Subpart C of part 8 of schedule 1 is amended as follows:

(1) Item 141.70 is amended by striking out "7% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 141.78 is amended by striking out "8.1% ad val." in column 1, and inserting in lieu thereof "Free".

SEC. 116. GUT FOR USE IN MANUFACTURE OF STERILE SURGICAL SUTURES.

(a) Subpart C of part 13 of schedule 7 is amended by striking out item 792.22 and inserting in lieu thereof the following new items with the article description at the same indentation level as the article description in item 792.20:

"792.24	*If imported for use in the manufacture of sterile surgical sutures*	*5.4% ad val.*	*4.5% ad val.*	*40% ad val.*
792.26	*Other*	*11.2% ad val.*	*7.7% ad val.*	*40% ad val.".*

(b)(1) The rate of duty in column numbered 1 for item 792.24 (as added by subsection (a)) shall be subject to any staged rate reductions for item 495.10 which are proclaimed by the President before the date of the enactment of this Act.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 792.24 in the column numbered 1 is not greater than the rate of duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

(c) The rate of duty in column numbered 1 for item 792.26 (as added by subsection (a)) shall be subject to the same staged rate reductions that were proclaimed by the President before the date of the enactment of this Act for item 792.22.

SEC. 117. ORANGE JUICE PRODUCTS.

Subpart A of part 12 of schedule 1 is amended—

(1) by inserting after item 165.25 the following new items and the superior heading thereto, with such superior heading at the same indentation level as the article description "Lime" in item 165.25:

	Orange:		
"165.27	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)	20¢ per gal	70¢ per gal.
165.29	Other	35¢ per gal	70¢ per gal.".

(2) by redesignating items 165.30 and 165.35 as items 165.32 and 165.36, respectively.

SEC. 118. REIMPORTATION OF CERTAIN ARTICLES ORIGINALLY IMPORTED DUTY FREE.

Item 801.00 is amended—

(1) by inserting "or which were previously entered free of duty pursuant to the Caribbean Basin Economic Recovery Act or title V of the Trade Act of 1974" after "previous importation"; and

(2) by striking out "lease to a foreign manufacturer" in clause (1) and inserting in lieu thereof "lease or similar use agreements".

SEC. 119. GEOPHYSICAL EQUIPMENT.

Part 1 of schedule 8 is amended by inserting in numerical sequence the following new item with the article description at the same indentation level as "Exhibition" in item 802.10:

"802.50	Rendition of geophysical or contracting services in connection with the exploration for, or the extraction or development of, natural resources	Free	Free".

SEC. 120. SCROLLS OR TABLETS USED IN RELIGIOUS OBSERVANCES.

Part 4 of schedule 8 is amended—

(1) by striking out "and 854.30" in headnote 1 and inserting in lieu thereof "854.30, and 854.40"; and

(2) by inserting in numerical sequence the following:

"854.40	Scrolls or tablets of wood or paper, commonly known as Gohonzon, imported for use in public or private religious observances, whether or not any of the foregoing is imported for the use of a religious institution	Free	Free".

SEC. 121. STEEL PIPES AND TUBES USED IN LAMPPOSTS.

(a) Subpart F of part 3 of schedule 6 is amended by inserting after item 653.37 the following new item with the same indentation as "Of brass" in item 653.37:

"653.38	Tapered steel pipes and tubes chiefly used as parts of illuminating articles	11.9% ad val.	7.6% ad val.	45% ad val.".

(b)(1) Notwithstanding any other provision of law, any reduction authorized under section 101 of the Trade Act of 1974 (19 U.S.C. 2111) in the rate of duty provided in any rate column for item 653.39 which takes effect after the date of enactment of this Act shall apply to the rate of duty provided in the corresponding column for item 653.38.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 653.38 in the column numbered 1 is not greater than the rate of duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

SEC. 122. WEARING APPAREL.

The headnotes for part 6 of schedule 3 are amended by adding at the end thereof the following new headnote:

"(3)(a) Except as provided in (b) of this headnote, each garment is to be separately classified under the appropriate tariff item, even if 2 or more garments are imported together and designed to be sold together at retail.

"(b) The provisions of paragraph (a) of this headnote shall not apply to—

"(i) suits,

"(ii) pajamas and other nightwear,

"(iii) playsuits, washsuits, and similar apparel,

"(iv) judo, karate, and other oriental martial arts uniforms,

"(v) swimwear, and

"(vi) infants' sets designed for children who are not over 2 years of age.".

SEC. 123. RECENTLY DEVELOPED DAIRY PRODUCTS.

(a) Subpart D of part 4 of schedule 1 is amended—

(1) by adding at the end thereof the following new items with the same indentation as "Malted milk" in item 118.30:

"118.35	Whey protein concentrate	10% ad val.		20% ad val.
118.40	Lactalbumin	Free		Free
118.45	Milk protein concentrate	0.2¢ per lb.		5.5¢ per lb.";

and

(2) by inserting after the title of such subpart the following:

"Subpart D headnote:

"1. For purposes of item 118.45, the term 'milk protein concentrate' means any complete milk protein (casein plus albumin) concentrate that is 40 percent or more protein by weight.".

(b) The superior heading for item 493.12 of the Tariff Schedules of the United States is amended by inserting "(other than a product described in item 118.45)" after "value thereof".

SEC. 124. TELECOMMUNICATIONS PRODUCT CLASSIFICATION.

(a) The Schedules are amended as follows:

(1) Part 5 of schedule 6 is amended—

(A) by inserting after headnote 5 the following new headnote:

"6. For purposes of the tariff schedules, the term 'entertainment broadcast band receivers' means those radio receivers designed principally to receive signals in the AM (550–1650 kHz) and FM (88–108 mHz) entertainment broadcast bands, whether or not capable of receiving signals on other bands (e.g., aviation, television, marine, public safety, industrial, and citizens band).",

(B) by striking out items 684.62 through 684.64 and inserting, in numerical sequence and subordinate to the superior heading to item 684.62, the following new items:

	"Telephonic apparatus and instruments and parts thereof:			
684.57	*Telephone switching apparatus (including private branch exchange and key system switching apparatus), and parts and components thereof*	*8.5% ad val.*		*45% ad val.*
684.58	*Telephone sets and other terminal equipment and parts thereof*	*8.5% ad val.*		*45% ad val.*
684.59	*Other*	*8.5% ad val.*		*45% ad val.*
684.63	*If Canadian article and original motor vehicle equipment (see headnote 2, part 6B, schedule 6)*	*Free*		
	Other:			
684.65	*Switching apparatus and parts thereof*	*5.6% ad val.*	*4.7% ad val.*	*45% ad val.*
684.66	*Terminal apparatus (including teleprinting and teletypewriting machines) and parts thereof*	*5.6% ad val.*	*4.7% ad val.*	*45% ad val.*
684.67	*Other*	*5.6% ad val.*	*4.7% ad val.*	*45% ad val.".*

(C) by inserting, in numerical sequence, the following new item:

"684.80	*Communications satellites (however provided for in this part) and parts thereof*	*Free*		*Free".*

(D) by redesignating 685.10, 685.11, 685.13, 685.14, 685.15, 685.16, 685.17, 685.18, 685.20, 685.22, 685.33, 685.34, and 685.36 as 684.90, 684.92, 684.94, 684.96, 684.98, 685.00, 685.02, 685.04, 685.06, 685.08, 685.36, 685.37, and 685.38 respectively.

(E) by striking out items 685.23 through 685.31, including the superior headings thereto, and inserting in lieu thereof the following new items:

	"Other:			
685.10	*Radio receivers, other than solid-state (tubeless)*	*6% ad val.*		*45% ad val.*
	Solid-state (tubeless) radio receivers:			
685.12	*Designed for motor-vehicle installation*	*8.9% ad val.*	*8% ad val.*	*45% ad val.*
	Other:			
685.14	*Entertainment broadcast band receivers*	*7.7% ad val.*	*6% ad val.*	*45% ad val.*
685.16	*Other*	*7.7% ad val.*	*6% ad val.*	*45% ad val.*
	Transceivers:			
	Citizens band:			
685.18	*Hand-held*	*6% ad val.*		*45% ad val.*
685.20	*Other*	*6% ad val.*		*45% ad val.*
685.22	*Low-power radiotelephonic transceivers operating on frequencies from 49.82 to 49.90 mHz*	*3.8% ad val.*	*2.4% ad val.*	*45% ad val.*
685.24	*Other transceivers*	*6% ad val.*		*45% ad val.*
	Other transmission apparatus incorporating reception apparatus:			
685.25	*Cordless handset telephones*	*6% ad val.*		*45% ad val.*
685.28	*Other*	*6% ad val.*		*45% ad val.*
	Other:			
685.30	*Transmitters*	*6% ad val.*		*45% ad val.*

685.32	Other, including parts	6% ad val		45% ad val.
685.34	Radiotelegraphic and radio-telephonic transmission and reception apparatus, and radio-broadcasting transmission and reception apparatus, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6)	Free".		

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(F) by inserting, in numerical sequence and at the same hierarchical level as the article description for item 685.40, the following new item:

"685.39	Telephone answering machines, and parts thereof	4.5% ad val	4.9% ad val	45% ad val.".

(G) by striking out the article description for item 685.40 and inserting in lieu thereof the following: "Tape recorders and dictation recording and transcribing machines (other than telephone answering machines), and parts thereof",

(H) by striking out item 685.50 and inserting in lieu thereof the following:

	"Other:			
685.48	Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks	5.9% ad val	4.9% ad val	45% ad val.
685.49	Other	5.9% ad val	4.9% ad val	45% ad val.".

(I) by striking out item 688.15 and inserting, in numerical sequence and subordinate to the superior heading to item 688.10, the following new items:

	"Other:			
688.17	With modular telephone connectors	5.8% ad val	5.4% ad val	45% ad val.
688.18	Other	5.8% ad val	5.4% ad val	45% ad val.".

(J) by redesignating item 688.16 as item 688.19, with the article description therefor subordinate to the article description for item 688.18 (as added by subparagraph (I)), and

(K) by striking out item 688.43 and inserting, in numerical sequence and subordinate to the superior heading to item 688.34, the following new items:

	"Other:			
688.41	Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks	4.5% ad val	4.9% ad val	45% ad val
688.42	Other	4.5% ad val	4.9% ad val	45% ad val.".

(2) Subpart A of part 2 of schedule 7 is amended—

(A) by inserting in numerical sequence the following new item:

"707.90	Optical fibers, whether or not in bundles, cables or otherwise put up, with or without connectors and whether mounted or not mounted	14.1% ad val	8.4% ad val	65% ad val.".

and

(B) by redesignating items 708.09 and 708.29 as 708.10 and 708.30, respectively.

(3) Subpart A of part 3 of schedule 8 is amended by striking out the superior heading to item 837.00 and inserting in lieu

thereof the following: "Articles for the National Aeronautics and Space Administration and articles (other than communications satellites and parts thereof) imported to be launched into space under launch services agreements with the National Aeronautics and Space Administration:".

(4) Subpart B of part 3 of schedule 8 is amended by striking out the superior heading to item 842.10 and inserting in lieu thereof the following: "Upon the request of the Department of State, articles (other than communications satellites and parts thereof) which are the property of a foreign government or of a public international organization:"

(b)(1) The rate of duty in column numbered 1 of the Schedules (as added or redesignated by subsection (a)) for each item set forth below in the column headed "A" in the table under paragraph (3) shall be subject to all staged rate reductions for the corresponding item set forth below in the column headed "B" in such table which were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 of the Schedules for each item set forth below in the column headed "A" in the table under paragraph (3) is reduced to the same level, or to a lower level, as the corresponding rate of duty specified in the column entitled "LDDC" of the Schedules for such item, the rate of duty in such "LDDC" column shall be deleted.

(3) The table referred to in paragraphs (1) and (2) is as follows:

A	*B*
684.65	*684.64*
684.66	*684.64*
684.67	*684.64*
684.90	*685.10*
684.94	*685.13*
685.00	*685.16*
685.04	*685.18*
685.06	*685.20*
685.08	*685.22*
685.12	*685.23*
685.14	*685.24*
685.16	*685.24*
685.22	*685.26*
685.36	*685.33*
685.37	*685.34*
685.38	*685.36*
685.39	*685.40*
685.48	*685.50*
685.49	*685.50*
688.17	*688.15*
688.18	*688.15*
688.41	*688.43*
688.42	*688.43*
707.90	*708.29*
708.10	*708.09*
708.30	*708.29*

(c) Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by adding at the end thereof the following new sentence: "The authority delegated to the Secretary by this subsection shall not extend to communications satellites and components and parts thereof.".

SEC. 125. FRESH ASPARAGUS.

Subpart A of part 8 of schedule 1 is amended by adding before the superior heading to items 135.10 through 135.17 (and at equivalent indentation with such heading and items) the following new items:

	"Asparagus:			
135.03	If fresh or chilled; entered during the period from September 15 to November 15, inclusive, in any year; and transported to the United States by air	5% ad val.		50% ad val.
135.05	Other	25% ad val.		50% ad val.",

SEC. 126. CHIPPER KNIFE STEEL.

Effective with respect to articles entered, or withdrawn from warehouse for consumption—

(1) on or after April 1, 1985—

(A) item 606.93 is amended by striking out "8.3% ad val." and inserting in lieu thereof "2% ad val.", and

(B) item 911.29 of the Appendix is repealed; and

(2) on or after April 1, 1986, item 606.93 is amended by striking out "2% ad val + additional duties (see headnote 4)" and inserting in lieu thereof "Free".

SEC. 127. IMPLEMENTATION OF CUSTOMS CONVENTION ON CONTAINERS, 1972.

(a) Subpart C of part 1 of schedule 8 is amended—

(1) by amending headnote 1 to such subpart by inserting ", accessories and equipment" immediately before the period at the end thereof; and

(2) by amending the article description for item 808.00 by striking out ", and repair components" and all that follows thereafter and inserting in lieu thereof ", repair components for containers of foreign production which are instruments of international traffic, and accessories and equipment for such containers, whether the accessories and equipment are imported with a container to be reexported separately or with another container, or imported separately to be reexported with a container.".

(b) Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by striking out "granted the customary exceptions" and inserting in lieu thereof "excepted".

Subtitle C—Temporary Changes in Tariff Treatment

SEC. 131. FRESH, CHILLED, OR FROZEN BRUSSELS SPROUTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"903.29	Brussels sprouts, fresh, chilled, or frozen, but not reduced in size and not otherwise prepared or preserved (provided for in item 137.71, part 8A, schedule 1)	12.5% ad val.	No change	On or before 12/31/87
903.33	Brussels sprouts, fresh, chilled, or frozen, and cut, sliced or otherwise reduced in size, but not otherwise prepared or preserved (provided for in item 138.46, part 8A, schedule 1)	7% ad val.	No change	On or before 12/31/87",

SEC. 132. β-NAPHTHOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.31	*β-Naphthol (provided for in item 403.29, part 1B, schedule 4).*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 133. 4-CHLORO-3-METHYLPHENOL.

Item 907.08 of the Appendix is amended by striking out "6/30/84" and inserting in lieu thereof "12/31/87".

SEC. 134. TETRAAMINO BIPHENYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.32	*3,3'-Diaminobenzidine (provided for in item 404.90, part 1C, schedule 4).*	*Free*	*No change*	*On or before 12/31/88".*

SEC. 135. 6-AMINO-1-NAPHTHOL-3-SULFONIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.34	*6-Amino-1-naphthol-3-sulfonic acid (provided for in item 405.00, part 1B, schedule 4).*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 136. DSA.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.35	*2-(4-Aminophenyl)-6-methylbenzo-thiazole-7-sulfonic acid (provided for in item 406.39, part 1B, schedule 4).*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 137. GUANIDINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.50	*Diphenyl guanidine and di-o-tolyl guanidine (provided for in item 405.52, part 1B, schedule 4).*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 138. CERTAIN ANTIBIOTICS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.51	*(6R,7R)-7-[(R)-2-Amino-2-phenylacetamido]-3-methyl-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid disolvate (provided for in item 406.42, part 1B, schedule 4).*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 139. ACETYLSULFAGUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.33	*Acetylsulfaguanidine (provided for in item 406.56, part 1B, schedule 4).*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 140. FENRIDAZON-POTASSIUM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.41	*Mixtures of potassium 1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylate ('fenridazon-potassium') and formulation adjuvants (provided for in item 408.38, part 1C, schedule 4).*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 141. UNCOMPOUNDED ALLYL RESINS.

Item 907.16 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "12/31/87".

SEC. 142. SULFAMETHAZINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.36	*Sulfamethazine (provided for in item 411.24, part 1C, schedule 4).*	*Free*	*Free*	*On or before 12/31/87".*

SEC. 143. SULFAGUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.37	*Sulfaguanidine (provided for in item 411.27, part 1C, schedule 4).*	*Free*	*Free*	*On or before 12/31/87".*

SEC. 144. TERFENADINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.25	*Terfenadine (provided for in item 411.58, part 1C, schedule 4).*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 145. SULFATHIAZOLE.

(a) Item 907.19 is amended to read as follows:

"907.19	*Sulfathiazole (provided for in item 411.80, part 1C, schedule 4).*	*Free*	*Free*	*On or before 12/31/87".*

(b) Section 136 (b) and (c) of the Act entitled "An Act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes" (approved January 12, 1983; Public Law 97-446) is repealed.

SEC. 146. SULFAQUINOXALINE AND SULFANILAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.38	*Sulfaquinoxaline and sulfanilamide (provided for in item 411.87, part 1C, schedule 4).*	*Free*	*Free*	*On or before 12/31/87".*

SEC. 147. DICYCLOMINE HYDROCHLORIDE AND MEPENZOLATE BROMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.53 Dicyclomine hydrochloride and mepenzolate bromide (provided for in item 412.02, part 1C, schedule 4).	Free	No change	On or before 12/31/87".

SEC. 148. AMIODARONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following:

"907.18 Amiodarone (provided for in item 412.12, part 1C, schedule 4).	Free	No change	On or before 12/31/87".

SEC. 149. DESIPRAMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.54 Desipramine hydrochloride (provided for in item 412.35, part 1C, schedule 4).	Free	No change	On or before 12/31/87".

SEC. 150. CLOMIPHENE CITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.42 Clomiphene citrate (provided for in item 412.50, part 1C, schedule 4).	Free	No change	On or before 12/31/87".

SEC. 151. YTTRIUM BEARING MATERIALS AND COMPOUNDS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.51 Yttrium bearing materials and compounds containing by weight more than 19% but less than 85% yttrium oxide equivalent (provided for in items 423.00 or 423.96, part 2C, schedule 4, or item 603.70, part 1, schedule 6).	Free	No change	On or before 12/31/88".

SEC. 152. TARTARIC ACID AND CHEMICALS.

Items 907.65, 907.66, 907.68, and 907.69 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "12/31/88".

SEC. 153. CERTAIN MIXTURES OF MAGNESIUM CHLORIDE AND MAGNESIUM NITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.52 Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, and magnesium nitrate (provided for in item 432.25, part 2E, schedule 4).	Free	No change	On or before 12/31/87".

SEC. 154. NICOTINE RESIN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.63 Nicotine resin complex (provided for in item 437.13, part 3B, schedule 4).	Free	No change	On or before 12/31/87".

SEC. 155. RIFAMPIN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.99	*Rifampin (provided for in item 437.32, part 3B, schedule 4)*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 156. LACTULOSE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.76	*Lactulose (provided for in item 439.50, part 3C, schedule 4).*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 157. IRON-DEXTRAN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.79	*Iron-dextran complex (provided for in item 440.00, part 3C, schedule 4)*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 158. NATURAL GRAPHITE.

Item 909.01 of the Appendix is amended by striking out "12/31/84" and inserting in lieu thereof "12/31/87".

SEC. 159. ZINC.

Items 911.00, 911.01, 911.02, and 911.03 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "12/31/89".

SEC. 160. CERTAIN DIAMOND TOOL BLANKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"910.00	*Tool blanks and drill blanks, wholly or in chief value of industrial diamonds (provided for in item 520.21, part 1H, or item 523.91, part 1K, schedule 5)*	*Free*	*30% ad val.*	*On or before 12/31/87".*

SEC. 161. CLOCK RADIOS.

Item 911.95 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "12/31/86".

SEC. 162. LACE-BRAIDING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.11	*Decorative lace-braiding machines using the jacquard system, and parts thereof (provided for in items 670.25 and 670.74, part 4E, schedule 6)*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 163. CERTAIN MAGNETRON TUBES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.02	Magnetron tubes with an operating frequency of 2,450 GHz and a minimum power of at least 500 watts and a maximum power not greater than 2000 watts (provided for in item 684.28, part 5, schedule 6)	Free	No change	On or before 12/31/86".

SEC. 164. NARROW FABRIC LOOMS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.04	Power driven weaving machines for weaving fabrics not over 12 inches in width (provided for in item 670.14, part 4E, schedule 6)	Free	No change	On or before 12/31/87".

(b) Subpart E of part 4 of schedule 6 is amended by adding the following new headnote:

"Subpart E headnote:

"1. For purposes of applying item 670.74 to parts of articles provided for under item 912.04, any such part that is entered, or withdrawn from warehouse for consumption, during the effective period of item 912.04 shall be dutiable at the rate that would apply if that item had not been enacted.".

SEC. 165. UMBRELLA FRAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical order the following new item:

"912.45	Frames for hand-held umbrellas chiefly used for protection against rain (provided for in item 751.20, part 8B, schedule 7)	Free	No change	On or before 12/31/86".

SEC. 166. CRUDE FEATHERS AND DOWN.

Items 903.70 and 903.80 of the Appendix are each amended by striking out "On or before 6/30/84" and inserting in lieu thereof "On or before 12/31/87".

SEC. 167. CANNED CORNED BEEF.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"903.15	Corned beef in airtight containers (provided for in item 107.48, part 2B, schedule 1)	3% ad val	No change	On or before 12/31/89".

SEC. 168. HOVERCRAFT SKIRTS.

Item 905.40 of the Appendix is amended—

(1) by striking out "manmade" and inserting in lieu thereof "man-made", and

(2) by striking out "6/30/83" and inserting in lieu thereof "12/31/87".

SEC. 169. DISPOSABLE SURGICAL DRAPES AND STERILE GOWNS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"905.50	Bonded fiber fabric disposable gowns, sterilized or in immediate packings ready for sterilization, for use in performing surgical procedures, of manmade fibers (provided for in items 379.96 and 383.92, part 6F, schedule 3) and bonded fiber fabric disposable surgical drapes, of manmade fibers (provided for in item 389.62, part 7B, schedule 3).	5.6% ad val.....	26.5% ad val.....	On or before 12/31/88".

SEC. 170. MXDA.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.03	m-Xylenediamine (provided for in item 404.88, part 1B, schedule 4).	Free.....	No change.....	On or before 12/31/87
907.04	1,3-Bis(amino-methyl)cyclohexane (provided for in item 407.05, part 1B, schedule 4).	Free.....	No change.....	On or before 12/31/87".

SEC. 171. 4,4-BIS(α,αDIMETHYLBENZYL) DIPHENYLAMINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"907.06	4,4'-Bis(α,α-dimethylbenzyl) diphenylamine (provided for in item 404.88, part 1B, schedule 4).	Free.....	No change.....	On or before 12/31/87".

SEC. 172. FLECAINIDE ACETATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.21	Flecainide acetate (provided for in item 412.12, part 1C, schedule 4).	Free.....	No change.....	On or before 12/31/87".

SEC. 173. CAFFEINE.

Item 907.22 of the Appendix is amended—

(1) by striking out "6% ad val." and inserting in lieu thereof "4.1% ad val."; and

(2) by striking out "12/31/83" and inserting in lieu thereof "12/31/87".

SEC. 174. WATCH CRYSTALS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

		Rates of Duty			
		1	LDDC	2	
"909.40	Watch glasses other than round watch glasses (provided for in item 547.13, part 3C, schedule 5).	5.9% ad val.....	4.9% ad val.....	No change.....	On or before 12/31/87".

(b) Effective with respect to articles provided for in item 909.40 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date:	Rate of duty:
January 1, 1985.....	5.6% ad val.
January 1, 1986.....	5.2% ad val.

SEC. 175. UNWROUGHT LEAD.

(a) Item 911.50 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "12/31/88".

(b) Section 114 of Public Law 96-609 is amended by striking out "July 1, 1983" in subsection (b) and inserting in lieu thereof "January 1, 1989".

SEC. 176. FLAT KNITTING MACHINES.

Item 912.13 of the Appendix is amended—

(1) by striking out "(provided for in item 670.19 or 670.20," and inserting in lieu thereof ", and parts thereof (provided for in items 670.19, 670.20, and 670.74,"; and

(2) by striking out "6/30/83" and inserting in lieu thereof "12/31/88".

SEC. 177. CERTAIN MENTHOL FEEDSTOCKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.13	*Mixtures containing not less than 90 percent by weight of stereoisomers of 2-isopropyl-5-methylcyclohexanol, but containing not more than 30 percent by weight of any one such stereoisomer (provided for in item 407.16, part 1B, schedule 4).*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 178. 2-METHYL-4-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.97	*2-Methyl-4-chlorophenol (provided for in item 403.56, part 1B, schedule 4).*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 179. UNWROUGHT ALLOYS OF COBALT.

Item 911.90 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "12/31/87".

SEC. 180. CIRCULAR KNITTING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item with a superior heading that has the same indentation as "Powerdriven" in item 912.13:

"912.17	*Cylinder, double cylinder, and dial knitting machines and parts thereof, all the foregoing designed for sweater strip or garment length knitting (provided for in items 670.17 and 670.74, part 4E, schedule 6).*	*Free*	*No change*	*On or before 12/31/89."*

SEC. 181. o-BENZYL-p-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.23	*o-Benzyl-p-chlorophenol (provided for in item 408.16, part 1C, schedule 4).*	*Free*	*No change*	*On or before 12/31/87".*

SEC. 182. CERTAIN BENZENOID CHEMICALS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"906.30	3,5,6-Trichlorosalicylic acid (provided for in item 404.46, part 1B, schedule 4).	Free	Free	On or before 12/31/87
906.32	m-Aminophenol (provided for in item 404.92, part 1B, schedule 4).	Free	Free	On or before 12/31/87
906.38	p-Acetamidobenzenesulfonyl chloride (N-Acetylsulfanilyl chloride) (provided for in item 405.33, part 1B, schedule 4).	Free	Free	On or before 12/31/87".

SEC. 183. M-TOLUIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.57	m-Toluic acid (provided for in item 404.28, part 1B, schedule 4).	Free	No change	On or before 12/31/87".

Subtitle D—Technical Amendments

SEC. 191. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The schedules are further amended as follows:

(1) Headnote 9(a) of the general headnotes is amended by striking out "warehouse, for consumption" and inserting in lieu thereof "warehouse for consumption,".

(2) The superior heading to items 346.05 and 346.10 and the superior heading to items 346.15 through 346.24 are each amended by striking out "Fabric" and inserting in lieu thereof "Fabrics".

(3) The article description for item 535.13 is amended by aligning the indentation of that description with that of the article description for item 535.12.

(4) Headnote 1(ii) to subpart D of part 6 of schedule 6 is amended by striking out "5(e)" and inserting in lieu thereof "5(g)".

(5) Item 642.34 is amended by striking out "12% ad val." and inserting in lieu thereof "10% ad val.".

(6) Headnote 6 to subpart E of part 2 of schedule 7 is amended—

(A) by striking out "through (h)" in paragraph (a) and inserting in lieu thereof "through (ij)";

(B) by striking out "paragraph (c)" in paragraph (b) and inserting in lieu thereof "paragraph (d)";

(C) by striking out "paragraph (d)" in subparagraph (d)(ii)(I) and inserting in lieu thereof "paragraph (e)"; and

(D) by redesignating paragraph (i) as paragraph (ij).

(7) Item 737.73 is amended by inserting a comma immediately after "ware".

(8) The article description for each of items 745.41 and 745.42 is amended by aligning the indentation of that description with that of the article description for item 745.34.

(9) The article description for each of items 870.50, 870.55, and 870.60 is amended by aligning the indentation of that description with that of the article description for item 870.25.

(b) The Appendix is amended as follows:

(1) The article description for item 903.25 is amended to read as follows: "Culled carrots, fresh or chilled, in immediate containers each holding more than 100 pounds (provided for in

item 135.42, part 8A, schedule 1), if entered for consumption during the period from August 15 in any year to the 15th day of the following February, inclusive".

(2) Item 906.10 is amended by striking out "386.09" and inserting in lieu thereof "386.13".

(3) The article description for item 906.12 is amended—

(A) by aligning the indentation of that description with that of the article description for item 906.10; and

(B) by inserting ", part 6F," after "383.50".

(4) The article description for item 907.00 is amended to read as follows: "p-Hydroxybenzoic acid (provided for in item 404.42, part 1B, schedule 4)".

(5) The article description for item 907.01 is amended to read as follows: "Triphenyl phosphate (provided for in item 409.34, part 1C, schedule 4)".

(6) The article description for item 907.14 is amended to read as follows: "Mixtures of 3-ethylbiphenyl (m-ethylbiphenyl) and 4-ethylbiphenyl (p-ethylbiphenyl) (provided for in item 407.16, part 1B, schedule 4)".

(7) The article description for item 907.15 is amended to read as follows: "1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) (provided for in item 408.28, part 1C, schedule 4)".

(8) Item 912.30 is amended by striking out "737.21,".

(c) The Educational, Scientific, and Cultural Materials Importation Act of 1982 (Public Law 97-446, 19 U.S.C. 1202 note) is amended as follows:

(1) Section 162 is amended by inserting a comma after "Architectural" in the article description for item 273.52 (as set forth in paragraph (2) of such section).

(2) Section 163(c) is amended—

(A) by striking out "headnote 2 as headnote 1," in paragraph (1) and inserting in lieu thereof "headnotes 2 and 3 as headnotes 1 and 2, respectively,"; and

(B) by striking out "models) and wall charts of an educational, scientific or cultural character," and inserting in lieu thereof "models), globes, and wall charts of an educational, scientific or cultural character;" in the article description for item 870.35 (as set forth in paragraph (3) of such section).

(3) Section 165 is amended—

(A) by redesignating items 870.50, 870.55, and 870.60 (as set forth in subsection (b)(1) of such section) as items 870.65, 870.66, and 870.67, respectively;

(B) by aligning the indentation of the article description of item 870.67 (as redesignated by paragraph (1)) with the indentation of "Articles for the blind:" immediately preceding item 870.65 and 870.66 (as so redesignated);

(C) by amending headnote 2 of part 7 of schedule 8 (as set forth in subsection (b)(2) of such section)—

(i) by redesignating it as headnote 3; and

(ii) by striking out "870.50, 870.55, and 870.60—" and inserting in lieu thereof "870.65, 870.66, and 870.67—".

(d) Section 504 of the Tariff Act of 1930 (19 U.S.C. 1504) is amended—

(1) by striking out ", his consignee, or agent" in subsection (a) and inserting in lieu thereof "of record";

(2) by striking out ", his consignee, or agent" and ", consignee, or his agent" in subsection (b) and inserting in lieu thereof "of record";

(3) by striking out "or consignee" each place it appears in subsection (c) and inserting in lieu thereof "of record"; and

(4) by striking out ", his consignee, or agent" in subsection (d) and inserting in lieu thereof "of record".

(e) Headnote 3(a)(i) of the general headnotes and rules of interpretation is amended by striking out "of schedule 7, part 2, subpart E, and except as provided in headnote 4 of schedule 7, part 7, subpart A" and inserting in lieu thereof "of subpart E of part 2 of schedule 7, and except as provided in headnote 3 of subpart A of part 7 of schedule 7".

Subtitle E—Effective Dates

SEC. 195. EFFECTIVE DATES.

(a) Except as provided in section 126 and in subsections (b) and (c), the amendments made by subtitles B, C, and D shall apply with respect to articles entered on or after the 15th day after the date of the enactment of this Act:

(b)(1) The amendment made by sections 117 and 124 shall apply with respect to articles entered on or after January 1, 1985.

(2) The amendments made by section 127 shall apply with respect to articles entered on or after a date to be proclaimed by the President which shall be consonant with the entering into force for the United States of the Customs Convention on Containers, 1972.

(c)(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act the entry of any article described in paragraph (2) or (3) shall be treated as provided in such paragraph.

(2)(A) In the case of the application of any amendment made by section 133, 145, 152, 159, 166, 168, 173, 175, 176, or 191 (a) or (b) to any entry—

(i) which was made after the applicable date and before the 15th day after the date of the enactment of this Act; and

(ii) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the 15th day after the date of the enactment of this Act.

(B) For purposes of subparagraph (A), the term "applicable date" means—

(i) in the case of section 191 (a) or (b), January 12, 1983,

(ii) in the case of sections 168, 175, and 176, June 30, 1983,

(iii) in the case of section 173, December 31, 1983,

(iv) in the case of sections 133, 152, 159, and 166, June 30, 1984,

(v) in the case of section 145, January 1, 1984, and

(vi) in the case of sections 141 and 161, September 30, 1984.

(C) In the case of the application of any amendment made by section 140 or 153 to any entry—

(1) that was made before the 15th day after the date of the enactment of this Act;

(2) that was unliquidated, or the liquidation of which was not final, on such 15th day; and

(3) with respect to which there would have been no duty if the amendment made by such section applied to such entry;

such entry shall be liquidated as though the entry had been made on such 15th day.

(d) For purposes of this section—

(1) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) The term "entry" includes any withdrawal from warehouse.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

SEC. 201. REFERENCE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 202. DRAWBACK.

Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended—

(1) by amending subsection (j)—

(A) by redesignating paragraph (2) as paragraph (4), and

(B) by inserting after paragraph (1) the following new paragraphs:

"(3) If there is, with respect to imported merchandise on which was paid any duty, tax, or fee imposed under Federal law because of its importation, any other merchandise (whether imported or domestic) that—

"(A) is fungible with such imported merchandise;

"(B) is, before the close of the three-year period beginning on the date of importation of the imported merchandise, either exported or destroyed under Customs supervision;

"(C) before such exportation or destruction—

"(i) is not used within the United States, and

"(ii) is in the possession of the party claiming drawback under this paragraph; and

"(D) is in the same condition at the time of exportation or destruction as was the imported merchandise at the time of its importation;

then upon the exportation or destruction of such other merchandise the amount of each such duty, tax, and fee paid regarding the imported merchandise shall be refunded as drawback, but in no case may the total drawback on the imported merchandise, whether available under this paragraph or any other provision of law or any combination thereof, exceed 99 percent of that duty, tax, or fee.

SEC. 203. PUBLIC DISCLOSURE OF CERTAIN MANIFEST INFORMATION.

Section 431 (19 U.S.C. 1431) is amended—

(1) by striking out the period at the end of the paragraph designated as "Third" in subsection (a) and inserting in lieu thereof "; and the names of the shippers of such merchandise."; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in subparagraph (2), the following information, when contained in such manifest, shall be available for public disclosure:

"(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

"(B) The general character of the cargo.

"(C) The number of packages and gross weight.

"(D) The name of the vessel or carrier.

"(E) The port of loading.

"(F) The port of discharge.

"(G) The country or origin of the shipment.

"(2) The information listed in paragraph (1) shall not be available for public disclosure if—

"(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

"(B) the information is exempt under the provisions of section 552(b)(1) of title 5 of the United States Code.

"(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.".

SEC. 204. VIRGIN ISLANDS EXCURSION VESSELS.

Section 441(3) (19 U.S.C. 1441(3)) is amended to read as follows:

"(3) Vessels carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, and licensed yachts or undocumented American pleasure vessels not engaged in trade: Provided, That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: Provided further, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.".

SEC. 205. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES.

Part V of title IV (19 U.S.C. 1581 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES; INSPECTIONS.

"(a)(1) Whoever knowingly imports, exports, or attempts to import or export—

"(A) Any stolen self-propelled vehicle, vessel, aircraft, or part of a self-propelled vehicle, vessel, or aircraft; or

"(B) any self-propelled vehicle or part of a self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered;

shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed $10,000 for each violation.

"(2) Any violation of this subsection shall make such self-propelled vehicle, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

"(b) A person attempting to export a used self-propelled vehicle shall present, pursuant to regulations prescribed by the Secretary, to the appropriate customs officer both the vehicle and a document describing such vehicle which includes the vehicle identification number, before lading if the vehicle is to be transported by vessel or aircraft, or before export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations of the Secretary shall subject such person to a civil penalty of not more than $500 for each violation.

"(c) For purposes of this section—

"(1) the term 'self-propelled vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) the term 'aircraft' has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

"(3) the term 'used' refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser; and

"(4) the term 'ultimate purchaser' means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.

"(d) Customs officers may cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either before exportation or after exportation or importation, with such Federal, State, local, and foreign law enforcement or governmental authorities, and with such organizations engaged in theft prevention activities, as may be designated by the Secretary.".

SEC. 206. INCREASE IN AMOUNT FOR INFORMAL ENTRY OF GOODS.

Section 498(1) (19 U.S.C. 1498(1)) is amended—

(1) by striking out "$250" and inserting in lieu thereof "$1,250"; and

(2) by inserting before the semicolon at the end thereof: ", except that this paragraph does not apply to articles valued in excess of $250 classified in—

"(A) schedule 3,

"(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

"(C) parts 2 and 3 of the Appendix,

of the Tariff Schedules of the United States, or to any other article for which formal entry is required without regard to value.".

SEC. 207. CERTAIN COUNTRY OF ORIGIN MARKING REQUIREMENTS.

Section 304 (19 U.S.C. 1304) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (h), respectively;

(2) by inserting immediately after subsection (b) the following new subsections:

"(c) MARKING OF CERTAIN PIPE AND FITTINGS.—No exception may be made under subsection (a)(3) with respect to pipes of iron, steel, or stainless steel, to pipe fittings of steel, stainless steel, chrome-moly steel, or cast and malleable iron each of which shall be marked with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving.

"(d) MARKING OF COMPRESSED GAS CYLINDERS.—No exception may be made under subsection (a)(3) with respect to compressed gas cylinders designed to be used for the transport and storage of compressed gases whether or not certified prior to exportation to have been made in accordance with the safety requirements of sections 178.36 through 178.68 of title 49, Code of Federal Regulations, each of which shall be marked with the English name of the country of origin by means of die stamping, molding, etching, raised lettering, or an equally permanent method of marking.

"(e) MARKING OF CERTAIN MANHOLE RINGS OR FRAMES, COVERS, AND ASSEMBLIES THEREOF.—No exception may be made under subsection (a)(3) with respect to manhole rings or frames, covers, and assemblies thereof each of which shall be marked on the top surface with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving."; and

(3) by striking out "subsection (c)" in subsection (g) (as so redesignated) and inserting in lieu thereof "subsection (f)".

SEC. 208. EQUIPMENTS AND REPAIRS OF CERTAIN VESSELS EXEMPT FROM DUTIES.

Section 466(e) (19 U.S.C. 1466(e)) is amended to read as follows:

"(e)(1) In the case of any vessel referred to in subsection (a) that arrives in a port of the United States two years or more after its last departure from a port in the United States, the duties imposed by this section shall apply only with respect to—

"(A) fish nets and netting, and

"(B) other equipments and parts thereof, repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States.

"(2) If such vessel is designed and used primarily for transporting passengers or property, paragraph (1) shall not apply if the vessel de-

parted from the United States for the sole purpose of obtaining such equipments, parts, materials, or repairs.".

SEC. 209. ARTICLES RETURNED FROM SPACE.

(a) Part III of title IV (19 U.S.C. 1481 et seq.) is amended by adding the following new section:

"SEC. 484a. ARTICLES RETURNED FROM SPACE NOT TO BE CONSTRUED AS IMPORTATION.

"The return of articles from space shall not be considered an importation, and an entry of such articles shall not be required, if:

"(1) such articles were previously launched into space from the customs territory of the United States aboard a spacecraft operated by, or under the control of, United States persons and owned—

"(A) wholly by United States persons, or

"(B) in substantial part by United States persons, or

"(C) by the United States;

"(2) such articles were maintained or utilized while in space solely on board such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1) (A) through (C) of this section; and

"(3) such articles were returned to the customs territory directly from space aboard such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1) (A) through (C) of this section;

without regard to whether such articles have been advanced in value or improved in condition by any process of manufacture or other means while in space.".

(b) Headnote 5 of the general headnotes of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(A) by striking out "media; and" in subdivision (e) and inserting in lieu thereof "media,";

(B) by adding after subdivision (e) the following new subdivision:

"(f) articles returned from space within the purview of section 484a of the Tariff Act of 1930; and"; and

(C) by redesignating subdivision (f) as subdivision (g).

SEC. 210. DATE OF LIQUIDATION OR RELIQUIDATION.

(a) Section 505 of the Tariff Act of 1930 (19 U.S.C. 1505) is amended by adding at the end thereof the following new subsection:

"(c) Duties determined to be due upon liquidation or reliquidation shall be due 15 days after the date of that liquidation or reliquidation, and unless payment of the duties is received by the appropriate customs officer within 30 days after that date, shall be considered delinquent and bear interest from the 15th day after the date of liquidation or reliquidation at a rate determined by the Secretary of the Treasury.".

(b) Section 520 of the Tariff Act of 1930 (19 U.S.C. 1520) is amended by adding at the end thereof the following new subsection:

"(d) If a determination is made to reliquidate an entry as a result of a protest filed under section 514 of this Act or an application for relief made under subsection (c)(1) of this section, or if reliquidation is ordered by an appropriate court, interest shall be allowed on any

amount paid as increased or additional duties under section 505(c) of this Act at the annual rate established pursuant to that section and determined as of the 15th day after the date of liquidation or reliquidation. The interest shall be calculated from the date of payment to the date of (1) the refund, or (2) the filing of a summons under section 2632 of title 28, United States Code, whichever occurs first.".

SEC. 211. OPERATION OF CERTAIN DUTY-FREE SALES ENTERPRISES.

Section 555 of the Tariff Act of 1930 (19 U.S.C. 1555) is amended—

(1) by striking out "Buildings" in the first sentence thereof and inserting in lieu thereof "(a) Subject to subsection (b), buildings"; and

(2) by inserting at the end thereof the following:

"(b) If a State or local governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free sales enterprise under which merchandise is delivered to such facility for exportation, merchandise incident to such operation may not be withdrawn from a bonded warehouse and transferred to such facility unless the operator of the duty-free sales enterprise demonstrates to the Secretary of the Treasury that the concession or approval required for the enterprise has been obtained. For purposes of this subsection, the term 'duty-free sales enterprise' means an entity that sells, in less than wholesale quantities, duty-free or tax-free merchandise that is delivered from a bonded warehouse to an airport, seaport, or point of exit from the United States for exportation by, or on behalf of, individuals departing from the United States.".

SEC. 212. CUSTOMS BROKERS.

(a) Section 641 (19 U.S.C. 1641) is amended to read as follows:

"SEC. 641. CUSTOMS BROKERS.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'customs broker' means any person granted a customs broker's license by the Secretary under subsection (b).

"(2) The term 'customs business' means those activities involving transactions with the Customs Service concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by the Customs Service upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof.

"(3) The term 'Secretary' means the Secretary of the Treasury.

"(b) CUSTOM BROKER'S LICENSES.—

"(1) IN GENERAL.—No person may conduct customs business (other than solely on behalf of that person) unless that person holds a valid customs broker's license issued by the Secretary under paragraph (2) or (3).

"(2) LICENSES FOR INDIVIDUALS.—The Secretary may grant an individual a customs broker's license only if that individual is a citizen of the United States. Before granting the license, the Secretary may require an applicant to show any facts deemed necessary to establish that the applicant is of good moral char-

acter and qualified to render valuable service to others in the conduct of customs business. In assessing the qualifications of an applicant, the Secretary may conduct an examination to determine the applicant's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters.

"(3) LICENSES FOR CORPORATIONS, ETC.—The Secretary may grant a customs broker's license to any corporation, association, or partnership that is organized or existing under the laws of any of the several States of the United States if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker's license granted under paragraph (2).

"(4) DUTIES.—A customs broker shall exercise responsible supervision and control over the customs business that it conducts.

"(5) LAPSE OF LICENSE.—The failure of a customs broker that is licensed as a corporation, association, or partnership under paragraph (3) to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed under paragraph (2) shall, in addition to causing the broker to be subject to any other sanction under this section (including paragraph (6)), result in the revocation by operation of law of its license.

"(6) PROHIBITED ACTS.—Any person who intentionally transacts customs business, other than solely on the behalf of that person, without holding a valid customs broker's license granted to that person under this subsection shall be liable to the United States for a monetary penalty not to exceed $10,000 for each such transaction as well as for each violation of any other provision of this section. This penalty shall be assessed in the same manner and under the same procedures as the monetary penalties provided for in subsection (d)(2)(A).

"(c) CUSTOMS BROKER'S PERMITS.—

"(1) IN GENERAL.—Each person granted a customs broker's license under subsection (b) shall—

"(A) be issued a permit, in accordance with regulations prescribed under this section, for each customs district in which that person conducts customs business; and

"(B) except as provided in paragraph (2), regularly employ in each customs district for which a permit is so issued at least one individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.

"(2) EXCEPTION.—If a person granted a customs broker's license under subsection (b) can demonstrate to the satisfaction of the Secretary that—

"(A) he regularly employs in the region in which that district is located at least one individual who is licensed under subsection (b)(2), and

"(B) that sufficient procedures exist within the company for the person employed in that region to exercise responsi-

ble supervision and control over the customs business conducted by that person in that district,

the Secretary may waive the requirement in paragraph (1)(B).

"(3) LAPSE OF PERMIT.—The failure of a customs broker granted a permit under paragraph (1) to employ, for any continuous period of 180 days, at least one individual who is licensed under subsection (b)(2) within the district or region (if paragraph (2) applies) for which a permit was issued shall, in addition to causing the broker to be subject to any other sanction under this section (including any in subsection (d)), result in the revocation by operation of law of the permit.

"(d) DISCIPLINARY PROCEEDINGS.—

"(1) GENERAL RULE.—The Secretary may impose a monetary penalty in all cases with the exception of the infractions described in clause (iii) of subparagraph (B) of this subsection, or revoke or suspend a license or permit of any customs broker, if it is shown that the broker—

"(A) has made or caused to be made in any application for any license or permit under this section, or report filed with the Customs Service, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein;

"(B) has been convicted at any time after the filing of an application for license under subsection (b) of any felony or misdemeanor which the Secretary finds—

"(i) involved the importation or exportation of merchandise;

"(ii) arose out of the conduct of its customs business; or

"(iii) involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

"(C) has violated any provision of any law enforced by the Customs Service or the rules or regulations issued under any such provision;

"(D) has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by the Customs Service, or the rules or regulations issued under any such provision;

"(E) has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of such employment from the Secretary; or

"(F) has, in the course of its customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client.

"(2) PROCEDURES.—

"(A) MONETARY PENALTY.—Unless action has been taken under subparagraph (B), the appropriate customs officer

shall serve notice in writing upon any customs broker to show cause why the broker should not be subject to a monetary penalty not to exceed $30,000 in total for a violation or violations of this section. The notice shall advise the customs broker of the allegations or complaints against him and shall explain that the broker has a right to respond to the allegations or complaints in writing within 30 days of the date of the notice. Before imposing a monetary penalty, the customs officer shall consider the allegations or complaints and any timely response made by the customs broker and issue a written decision. A customs broker against whom a monetary penalty has been issued under this section shall have a reasonable opportunity under section 618 to make representations seeking remission or mitigation of the monetary penalty. Following the conclusion of any proceeding under section 618, the appropriate customs officer shall provide to the customs broker a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

"(B) REVOCATION OR SUSPENSION.—The appropriate customs officer may, for good and sufficient reason, serve notice in writing upon any customs broker to show cause why a license or permit issued under this section should not be revoked or suspended. The notice shall be in the form of a statement specifically setting forth the grounds of the complaint, and shall allow the customs broker 30 days to respond. If no response is filed, or the appropriate customs officer determines that the revocation or suspension is still warranted, he shall notify the customs broker in writing of a hearing to be held within 15 days, or at a later date if the broker requests an extension and shows good cause therefor, before an administrative law judge appointed pursuant to section 3105 of title 5, United States Code, who shall serve as the hearing officer. If the customs broker waives the hearing, or the broker or his designated representative fails to appear at the appointed time and place, the hearing officer shall make findings and recommendations based on the record submitted by the parties. At the hearing, the customs broker may be represented by counsel, and all proceedings, including the proof of the charges and the response thereto shall be presented with testimony taken under oath and the right of cross-examination accorded to both parties. A transcript of the hearing shall be made and a copy will be provided to the appropriate customs officer and the customs broker; they shall thereafter be provided reasonable opportunity to file a post-hearing brief. Following the conclusion of the hearing, the hearing officer shall transmit promptly the record of the hearing along with his findings of fact and recommendations to the Secretary for decision. The Secretary will issue a written decision, based solely on the record, setting forth his findings of fact and the reasons for his decision. Such decision may provide for the sanction contained in the notice to show

cause or any lesser sanction authorized by this subsection, including a monetary penalty not to exceed $30,000, than was contained in the notice to show cause.

"(3) SETTLEMENT AND COMPROMISE.—The Secretary may settle and compromise any disciplinary proceeding which has been instituted under this subsection according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

"(4) LIMITATION OF ACTIONS.—Notwithstanding section 621, no proceeding under this subsection or subsection (b)(6) shall be commenced unless such proceeding is instituted by the appropriate service of written notice within 5 years from the date the alleged violation was committed; except that if the alleged violation consists of fraud, the 5-year period of limitation shall commence running from the time such alleged violation was discovered.

"(e) JUDICIAL APPEAL.—

"(1) IN GENERAL.—A customs broker, applicant, or other person directly affected may appeal any decision of the Secretary denying or revoking a license or permit under subsection (b) or (c), or revoking or suspending a license or permit or imposing a monetary penalty in lieu thereof under subsection (d)(2)(B), by filing in the Court of International Trade, within 60 days after the issuance of the decision or order, a written petition requesting that the decision or order be modified or set aside in whole or in part. A copy of the petition shall be transmitted promptly by the clerk of the court to the Secretary or his designee. In cases involving revocation or suspension of a license or permit or imposition of a monetary penalty in lieu thereof under subsection (d)(2)(B), after receipt of the petition, the Secretary shall file in court the record upon which the decision or order complained of was entered, as provided in section 2635(d) of title 28, United States Code.

"(2) CONSIDERATION OF OBJECTIONS.—The court shall not consider any objection to the decision or order of the Secretary, or to the introduction of evidence or testimony, unless that objection was raised before the hearing officer in suspension or revocation proceedings unless there were reasonable grounds for failure to do so.

"(3) CONCLUSIVENESS OF FINDINGS.—The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) ADDITIONAL EVIDENCE.—If any party applies to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and that reasonable grounds existed for the failure to present the evidence in the proceedings before the hearing officer, the court may order the additional evidence to be taken before the hearing officer and to be presented in a manner and upon the terms and conditions prescribed by the court. The Secretary may modify the findings of facts on the basis of the additional evidence presented. The Secretary shall then file with the court any new or modified findings of fact which shall be conclusive if supported by sub-

stantial evidence, together with a recommendation, if any, for the modification or setting aside of the original decision or order.

"(5) EFFECT OF PROCEEDINGS.—The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the decision of the Secretary except in the case of a denial of a license or permit.

"(6) FAILURE TO APPEAL.—If an appeal is not filed within the time limits specified in this section, the decision by the Secretary shall be final and conclusive. In the case of a monetary penalty imposed under subsection (d)(2)(B) of this section, if the amount is not tendered within 60 days after the decision becomes final, the license shall automatically be suspended until payment is made to the Customs Service.

"(f) REGULATIONS BY THE SECRETARY.—The Secretary may prescribe such rules and regulations relating to the customs business of customs brokers as the Secretary considers necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations governing the licensing of or issuance of permits to customs brokers, the keeping of books, accounts, and records by customs brokers, and documents and correspondence, and the furnishing by customs brokers of any other information relating to their customs business to any duly accredited officer or employee of the United States Customs Service.

"(g) TRIENNIAL REPORTS BY CUSTOMS BROKERS.—

"(1) IN GENERAL.—On February 1, 1985, and on February 1 of each third year thereafter, each person who is licensed under subsection (b) shall file with the Secretary of the Treasury a report as to—

"(A) whether such person is actively engaged in business as a customs broker; and

"(B) the name under, and the address at, which such business is being transacted.

"(2) SUSPENSION AND REVOCATION.—If a person licensed under subsection (b) fails to file the required report by March 1 of the reporting year, the license is suspended, and may be thereafter revoked subject to the following procedures:

"(A) The Secretary shall transmit written notice of suspension to the licensee no later than March 31 of the reporting year.

"(B) If the licensee files the required report within 60 days of receipt of the Secretary's notice, the license shall be reinstated.

"(C) In the event the required report is not filed within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license.

"(h) FEES AND CHARGES.—The Secretary may prescribe reasonable fees and charges to defray the costs of the Customs Service in carrying out the provisions of this section, including, but not limited to, a fee for licenses issued under subsection (b) and fees for any test administered by him or under his direction; except that no separate fees shall be imposed to defray the costs of an individual audit or of individual disciplinary proceedings of any nature.".

(b) Title 28, United States Code, is amended as follows:

(1) Section 1581(g) is amended to read as follows:

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any decision of the Secretary of the Treasury to deny a customs broker's license under section 641(b)(2) or (3) or (c) of the Tariff Act of 1930, or to deny a customs broker's permit under section 641(c)(1) of such Act, or to revoke a license or permit under section 641(b)(5) or (c)(2) of such Act; and

"(2) any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit, or impose a monetary penalty in lieu thereof, under section 641(d)(2)(B) of the Tariff Act of 1930.".

(2) Section 1582(1) is amended to read as follows:

"(1) to recover a civil penalty under section 592, 641(a)(1)(C), 641(d)(2)(A), 704(i)(2), or 734(i)(2) of the Tariff Act of 1930;".

(3) Section 2631(g) is amended to read as follows:

"(g)(1) A civil action to review any decision of the Secretary of the Treasury to deny a customs broker's license under section 641(b) (2) or (3) of the Tariff Act of 1930, or to deny a customs broker's permit under section 641(c)(1) of such Act, or to revoke such license or permit under section 641(b)(5) or (c)(2) of such Act, may be commenced in the Court of International Trade by the person whose license or permit was denied or revoked.

"(2) A civil action to review any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit or impose a monetary penalty in lieu thereof under section 641(d)(2)(B) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person against whom the decision was issued.".

(4) Section 2636(h) is amended to read as follows:

"(h) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customs broker's license or permit under subsection (b) or (c) of section 641 of the Tariff Act of 1930, or the revocation or suspension of such license or permit or the imposition of a monetary penalty in lieu thereof by such Secretary under section 641(d) of such Act, is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of the entry of the decision or order of such Secretary.".

(5) Section 2640(a)(5) is amended to read as follows:

"(5) Civil actions commenced to review any decision of the Secretary of the Treasury under section 641 of the Tariff Act of 1930, with the exception of decisions under section 641(d)(2)(B), which shall be governed by subdivision (d) of this section.".

(6) Section 2643 is amended by adding the following new subsection:

"(e) In any proceeding involving assessment or collection of a monetary penalty under section 641(b)(6) or 641(d)(2)(A) of the Tariff Act of 1930, the court may not render judgment in an amount greater than that sought in the initial pleading of the United States, and may render judgment in such lesser amount as shall seem proper and just to the court.".

(7) The Tariff Act of 1930 is further amended—

(A) by adding the following sentence at the end of section 564: "The provisions of this section shall apply to licensed customs brokers who otherwise possess a lien for the purposes stated above upon the merchandise under the statutes or common law, or by order of any court of competent jurisdiction, of any State."; and

(B) by adding the following at the end of section 520(a): "(4) PRIOR TO LIQUIDATION.—Prior to the liquidation of an entry, whenever it is ascertained that excess duties, fees, charges, or exactions have been deposited or paid by reason of clerical error.".

SEC. 213. SEIZURES AND FORFEITURES.

(a) The Tariff Act of 1930 is amended as follows:

(1) Section 602 (19 U.S.C. 1602) is amended by inserting "aircraft," after "vehicle,".

(2) The sentence beginning "All vessels," in section 605 (19 U.S.C. 1605) is amended by inserting "aircraft," after "vehicles," the first place is appears.

(3) Section 606 (19 U.S.C. 1606) is amended by inserting "aircraft," after "vehicle,".

(4) Section 607 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 607. SEIZURE; VALUE $100,000 OR LESS, PROHIBITED MERCHANDISE, TRANSPORTING CONVEYANCES.

"(a) If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise is merchandise the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, transport, or store any controlled substance;

the appropriate customs officer shall cause a notice of the seizure of such articles and the intention of forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

"(b) As used in this section, the term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(5) Section 608 (19 U.S.C. 1608) is amended—

(A) in the sentence beginning "Any person", by inserting "aircraft," after "vehicle,"; and

(B) in the sentence beginning "Upon the filing", by inserting after "penal sum of" the following: "$2,500 or 10 percent of the value of the claimed property, whichever is lower, but not less than".

(6) Section 609 (19 U.S.C. 1609) is amended—

(A) by striking out "If no" and inserting in lieu thereof "(a) If no";

(B) by inserting "aircraft," after "vehicle,";

(C) by inserting after "according to law, and" the following: "(except as provided in subsection (b) of this section)"; and

(D) by adding at the end the following new subsection:

"(b) During the period beginning on the date of the enactment of this subsection and ending on September 30, 1987, the appropriate customs officer shall deposit the proceeds of sale (after deducting such expenses) in the Customs Forfeiture Fund.".

(7) Section 610 (19 U.S.C. 1610) is amended—

(A) by striking out "VALUE MORE THAN $10,000" in the section heading and inserting in lieu thereof "JUDICIAL FORFEITURE PROCEEDINGS"; and

(B) by striking out "If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than $10,000," and inserting in lieu thereof "If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607 of this Act,".

(8) Section 611 (19 U.S.C. 1611) is amended by inserting "aircraft," after "vehicle," each place it appears.

(9) Section 612 (19 U.S.C. 1612) is amended—

(A) by inserting "aircraft," after "vehicle," each place it appears;

(B) in the sentence beginning "Whenever it appears"—

(i) by striking out "Whenever" and inserting in lieu thereof "(a) Whenever";

(ii) by striking out "the value of"; and

(iii) by striking out "as determined under section 606 of this Act, does not exceed $10,000" and inserting in lieu thereof "is subject to section 607 of this Act";

(C) in the sentence beginning "If such value"—

(i) by striking out "such value of"; and

(ii) by striking out "exceed $10,000" and inserting in lieu thereof "is not subject to section 607 of this Act,"; and

(D) by adding at the end the following new subsection:

"(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.".

(10) Section 613 (19 U.S.C. 1613) is amended—

(A) by inserting "aircraft," after "vehicle," in the sentence beginning "Except as" in subsection (a);

(B) by striking out "with the Treasurer of the United States as a customs or navigation fine" and inserting in lieu thereof "in the general fund of the Treasury of the United States" in paragraph (3) of the sentence beginning "If no" in subsection (a); and

(C) by amending subsection (b) by inserting after "and (2) of this section" the following: "or subsection (a)(1), (a)(3), or (a)(4) of section 613A of this Act".

(11) Part V of title IV (19 U.S.C. 1581 et seq.) is amended by adding after section 613 the following new section:

"SEC. 613A. CUSTOMS FORFEITURE FUND.

"(a) There is established in the Treasury of the United States a fund to be known as the Customs Forfeiture Fund (hereinafter in

this section referred to as the 'fund'), which shall be available to the United States Customs Service, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to seizures and forfeitures by the United States Customs Service under any law enforced or administered by it for payment (to the extent that such payment is not reimbursed under section 524 of this Act)—

"(1) of all proper expenses of the seizure or the proceedings of forfeiture and sale (not otherwise recovered under section 613(a)), including, but not limited to, expenses of inventory, security, maintaining the custody of the property, advertising and sale, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(2) of awards of compensation to informers under section 619 of this Act;

"(3) for satisfaction of—

"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

"(B) other liens against forfeited property;

"(4) of amounts authorized by law with respect to remission and mitigation;

"(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the United States Customs Service; and

"(6) of claims of parties in interest to property disposed of under section 612(b) of this Act, in the amounts applicable to such claims at the time of seizure.

In addition to the purposes described in paragraphs (1) through (6), the fund shall be available for purchases by the United States Customs Service of evidence of (A) smuggling of controlled substances, and (B) violations of the currency and foreign transaction reporting requirements of chapter 53 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances.

"(b)(1) Payment under paragraphs (3) and (4) of subsection (a) of this section shall not exceed the value of the property at the time of the seizure.

"(2) Amounts under subsection (a) of this section shall be available, at the discretion of the Commissioner of Customs, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

"(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section, and ending on September 30, 1987, all proceeds from forfeiture under any law enforced or administered by the United States Customs Service (after reimbursement of expenses under section 524 of this Act) and all earnings on amounts invested under subsection (d) of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Commissioner of Customs shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

"(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, not more than $10,000,000.

"(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(12) Section 614 (19 U.S.C. 1614) is amended by inserting "aircraft," after "vehicle," each place it appears.

(13) Section 615 (19 U.S.C. 1615) is amended—

(A) in the matter before the proviso, by inserting "aircraft," after "vehicle," each place it appears; and

(B) in paragraph (1) of the proviso, by striking out "vessel or vehicle" and inserting in lieu thereof "vessel, vehicle, or aircraft".

(14) Part V of title IV (19 U.S.C. 1581 et seq.), as amended by paragraph (11), is further amended by adding after section 615 the following new section:

"SEC. 616. TRANSFER OF FORFEITED PROPERTY.

"(a) The Secretary of the Treasury may discontinue forfeiture proceedings under this Act in favor of forfeiture under State law. If a complaint for forfeiture is filed under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

"(b) If forfeiture proceedings are discontinued or dismissed under this section—

"(1) the United States may transfer the seized property to the appropriate State or local official; and

"(2) notice of the discontinuance or dismissal shall be provided to all known interested parties.

"(c) The Secretary of the Treasury may transfer any property forfeited under this Act to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.

"(d) The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.".

(15) Section 619 (19 U.S.C. 1619) is amended—

(A) by inserting "aircraft," after "vehicle," each place it appears, and

(B) by striking out "$50,000" each place it appears and inserting in lieu thereof "$250,000".

(16) The sentence beginning "Whenever any" in section 618 (19 U.S.C. 1618) is amended by inserting "aircraft," after "vehicle," each place it appears.

(17) Part V of title IV (19 U.S.C. 1581 et seq.), as amended by paragraphs (11) and (13), is further amended by adding after section 588 the following new section:

"SEC. 589. ENFORCEMENT AUTHORITY OF CUSTOMS OFFICERS.

"Subject to the direction of the Secretary of the Treasury, an officer of the customs may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States;

"(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

(b)(1) Section 7607 of the Internal Revenue Code of 1954 is repealed.

(2) The table of sections for subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 7607.

SEC. 214. EFFECTIVE DATES.

(a) For purposes of this section, the term "15th day" means the 15th day after the date of the enactment of this Act.

(b) Except as provided in subsections (c) and (d), the amendments made by this title shall take effect on the 15th day.

(c)(1) The amendment made by section 204 shall apply with respect to vessels returning from the British Virgin Islands on or after the 15th day.

(2) The amendments made by section 207 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day; except for such of those articles that, on or before the 15th day, had been taken on board for transit to the customs territory of the United States.

(3)(A) The amendment made by section 208 shall apply with respect to entries made in connection with arrivals of vessels on or after the 15th day.

(B) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

(i) made before the 15th day but not liquidated as of January 1, 1983, or

(ii) made before the 15th day but which is the subject of an action in a court of competent jurisdiction on September 19, 1983, and

(iii) with respect to which there would have been no duty if the amendment made by section 208 applied to such entry,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on the 15th day.

(4) The amendments made by section 209 shall apply with respect to articles launched into space from the customs territory of the United States on or after January 1, 1985.

(5)(A) The amendment made by section 210(a) shall take effect on the 30th day after the date of the enactment of this Act.

(B) The amendment made by section 210(b) shall apply with respect to determinations made or ordered on or after the date of the enactment of this Act.

(d)(1) The amendments made by section 212 shall take effect upon the close of the 180th day following the date of the enactment of this Act with the following exceptions:

(A) Section 641(c)(1)(B) and section 641(c)(2) of the Tariff Act of 1930, as added by such section, shall take effect three years after the date of the enactment of this Act.

(B) The amendments made to the Tariff Act of 1930 by subsection (c) of section 212 shall take effect on such date of enactment.

(2) A license in effect on the date of enactment of this Act under section 641 of the Tariff Act of 1930 (as in effect before such date of enactment) shall continue in force as a license to transact customs business as a customs broker, subject to all the provisions of section 212 and such licenses shall be accepted as permits for the district or districts convered by that license.

(3) Any proceeding for revocation or suspension of a license insitituted under section 641 of the Tariff Act of 1930 before the date of the enactment of this Act shall continue and be governed by the law in effect at the time the proceeding was instituted.

(4) If any provision of section 212 or its application to any person or circumstances is held invalid, it shall not affect the validity of the remaining provisions or their application to any other person or circumstances.

(e) The amendments made by section 213 shall take effect October 15, 1984.

Subtitle B—Small Business Trade Assistance

SEC. 221. ESTABLISHMENT OF TRADE REMEDY ASSISTANCE OFFICE IN THE UNITED STATES INTERNATIONAL TRADE COMMISSION.

Part 2 of title II of the Tariff Act of 1930 (19 U.S.C. 1330–1341) is amended by inserting after section 338 the following new section:

"SEC. 339. TRADE REMEDY ASSISTANCE OFFICE.

"(a) There is established in the Commission a Trade Remedy Assistance Office which shall provide full information to the public, upon request, concerning—

"(1) remedies and benefits available under the trade laws, and

"(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

"(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) to obtain the remedies and benefits that may be available under that law.

"(c) For purposes of this section—

"(1) The term 'eligible small business' means any business concern which, in the agency's judgment, due to its small size,

has neither adequate internal resources nor financial ability to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits under trade laws. In determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration, and shall consult with any other agency that has provided assistance under subsection (b) to that business concern. An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

"(2) The term 'trade laws' means—

"(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

"(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

"(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

"(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

"(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

"(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade."

(b) Section 339 of the Tariff Act of 1930 (as added by subsection (a)) shall take effect on the 90th day after the date of the enactment of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 231. FOREIGN TRADE ZONE PROVISIONS.

(a)(1) The Congress finds that a delicate balance of the interests of the bicycle industry and the bicycle component parts industry has been reached through repeated revision of the Tariff Schedules of the United States so as to allow duty free import of those categories of bicycle component parts which are not manufactured domestically. The Congress further finds that this balance would be destroyed by exempting otherwise dutiable bicycle component parts from the customs laws of the United States through granting foreign trade zone status to bicycle manufacturing and assembly plants in the United States and that the preservation of such balance is in the public interest and in the interest of the domestic bicycle industry.

(2) Section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act (19 U.S.C. 81c)), is amended—

(A) by inserting "(a)" immediately before the first word thereof:

(B) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

(C) by adding at the end thereof the following new subsection:

"(b) The exemption from the customs laws of the United States provided under subsection (a) shall not be available before June 30, 1986, to bicycle component parts unless such parts are reexported from the United States, whether in the original package, as components of a completely assembled bicycle, or otherwise.".

(3) The amendments made by paragraph (2) shall take effect on the fifteenth day after the date of the enactment of this Act.

(b)(1) Section 15 of such Act of June 18, 1934 (19 U.S.C. 81o) is amended by adding at the end thereof the following new subsection:

"(e) Tangible personal property imported from outside the United States and held in a zone for the purpose of storage, sale, exhibition, repackaging, assembly, distribution, sorting, grading, cleaning, mixing, display, manufacturing, or processing, and tangible personal property produced in the United States and held in a zone for exportation, either in its original form or as altered by any of the above processes, shall be exempt from State and local ad valorem taxation.".

(2) The amendment made by paragraph (1) shall take effect on January 1, 1983.

SEC. 232. DENIAL OF DEDUCTION FOR CERTAIN FOREIGN ADVERTISING EXPENSES.

(a) Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) CERTAIN FOREIGN ADVERTISING EXPENSES.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expenses of an advertisement carried by a foreign broadcast undertaking and directed primarily to a market in the United States. This paragraph shall apply only to foreign broadcast undertakings located in a country which denies a similar deduction for the cost of advertising directed primarily to a market in the foreign country when placed with a United States broadcast undertaking.

"(2) BROADCAST UNDERTAKING.—For purposes of paragraph (1), the term 'broadcast undertaking' includes (but is not limited to) radio and television stations.".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 233. CERTAIN RELICS AND CURIOS.

Section 925 of title 18, United States Code, is amended by inserting at the end thereof the following:

"(e) Notwithstanding any other provision of this title, the Secretary shall authorize the importation of, by any licensed importer, the following:

"(1) All rifles and shotguns listed as curios or relics by the Secretary pursuant to section 921(a)(13), and

"(2) All handguns, listed as curios or relics by the Secretary pursuant to section 921(a)(13), provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.".

SEC. 234. MODIFICATION OF DUTIES ON CERTAIN ARTICLES USED IN CIVIL AVIATION.

(a) The President may proclaim modifications in the rate of duty column numbered 1 and in the article descriptions, including the superior headings thereto, for the articles provided for in the following items in the Tariff Schedules of the United States (19 U.S.C. 1202) in order to provide duty-free coverage comparable to the expanded coverage provided by all other signatories to the Agreement on Trade in Civil Aircraft pursuant to the extension of the Annex to the Agreement on Trade in Civil Aircraft on October 6, 1983, and recorded in the decision of the Committee on March 22, 1984, if such articles are certified for use in civil aircraft in accordance with headnote 3 to schedule 6, part 6, subpart C of such Schedules:

646.95	680.92	708.03
660.85	680.95	708.05
660.97	681.01	708.07
661.06	681.15	708.09
661.10	681.18	708.21
661.15	681.21	708.23
661.20	681.24	708.25
661.35	682.05	708.27
680.59	683.05	708.29
680.61	683.07	711.77
680.62	683.15	711.78
	708.01	711.98
		711.49.

(b) For purposes of section 125 of the Trade Act of 1974, the duty-free treatment, if any, proclaimed under subsection (a) shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

SEC. 235. PRODUCTS OF CARIBBEAN BASIN COUNTRIES ENTERED IN PUERTO RICO

Subsection (a) of section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended by adding at the end thereof the following new paragraph:

> *"(3) Notwithstanding section 311 of the Tariff Act of 1930, the products of a beneficiary country which are imported directly from such country into Puerto Rico may be entered under bond for processing or use in manufacturing in Puerto Rico. No duty shall be imposed on the withdrawal from warehouse of the product of such processing or manufacturing if, at the time of such withdrawal, such product meets the requirements of paragraph (1)(B).".*

SEC. 236. USER FEE FOR CUSTOMS SERVICES AT CERTAIN SMALL AIRPORTS.

(a) The Secretary of the Treasury shall make customs services available and charge a fee for the use of such customs services at—

> *(1) the airport located at Lebanon, New Hampshire, and*
>
> *(2) any other airport designated by the Secretary of the Treasury under subsection (c).*

(b) The fee which is charged under subsection (a) shall be paid by each person using the customs services at the airport and shall be in an amount equal to the expenses incurred by the Secretary of the Treasury in providing the customs services which are rendered to such person at such airport (including the salary and expenses of in-

dividuals employed by the Secretary of the Treasury to provide such customs services).

(c) The Secretary of the Treasury may designate 4 airports under this subsection. An airport may be designated under this subsection only if—

(1) the Secretary of the Treasury has made a determination that the volume or value of business cleared through such airport is insufficient to justify the availability of customs services at such airport, and

(2) the governor of the State in which such airport is located approves such designation.

(d) Any person who, after notice and demand for payment of any fee charged under subsection (a), fails to pay such fee shall be guilty of a misdemeanor and if convicted thereof shall pay a fine that does not exceed an amount equal to 200 percent of such fee.

(e) Fees collected by the Secretary of the Treasury under subsection (a) with respect to the provision of services at an airport shall be deposited in an account within the Treasury of the United States that is specially designated for such airport. The funds in such account shall only be available, as provided by appropriation Acts, for expenditures relating to the provision of customs services at such airport (including expenditures for the salaries and expenses of individuals employed to provide such services).

SEC. 237. NOTIFICATION OF CERTAIN ACTIONS BY THE UNITED STATES CUSTOMS SERVICE.

(a) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 90 days prior to initiating any major field reorganization or consolidation or taking any other action which would—

(1) result in a significant reduction in force of employees other than by means of attrition;

(2) eliminate or relocate any district, regional, or border office of the United States Customs Service; or

(3) significantly reduce the number of employees assigned to any district, regional, or border office of the United States Customs Service.

(b) The provisions of this section shall not apply after September 30, 1985.

(c) The amendment made by subsection (a) shall take effect after the effective date of any provision of law enacted by the 98th Congress that would, but for this section, limit the authority of the Commission of Customs to reorganize or consolidate any district, regional, or border office of the Service.

SEC. 238. COLUMBIA-SNAKE CUSTOMS DISTRICT.

The Commissioner of the United States Customs Service shall establish a customs district that shall—

(1) be known as the Columbia-Snake Customs District;

(2) have headquarters at Portland, Oregon; and

(3) consist of the following areas:

(A) The State of Oregon.

(B) That part of the State of Idaho below 47 latitude.

(C) The following countries in the State of Washington:

Adams,
Asotin,
Benton,
Clark,
Columbia,
Cowlitz,
Franklin,
Garfield,
Klickitat,
Skamania,
Wahkiakum,
Walla Walla, and
Whitman.

(D) That area of Pacific County, State of Washington, south of a line that would be in effect if the northern boundary of Wahkiakum County were extended westward to the Pacific Ocean.

The ports of entry for Columbia-Snake Customs District are those ports of entry that were within the areas described in paragraph (3) on the date of the enactment of this Act; except that Boise, Idaho, is an additional port of entry for that District.

SEC. 239. RELIQUIDATION OF CERTAIN MASS SPECTROMETER SYSTEMS.

Notwithstanding sections 514 and 520 of the Tariff Act of 1930 and any other provision of law, the Secretary of the Treasury is authorized to reliquidate within six months of the date of enactment of this Act the entry of 2 mass spectrometer systems—

(1) which were imported into the United States for the use of Montana State University, Bozeman, Montana, and

(2) with respect to which applications were filed with the International Trade Administration of the Department of Commerce for duty-free entry of scientific instruments that were assigned the docket numbers 82–00323 and 83–108 (described in 47 Federal Register 41409 and 48 Federal Register 13214, respectively),

if the Secretary of Commerce finds that these systems are eligible to enter free of duty pursuant to headnote 6 of part 4 of schedule 8 of the Tariff Schedules of the United States.

SEC. 240. MAX PLANCK INSTITUTE FOR RADIOASTRONOMY.

(a)(1) The Secretary of the Treasury is authorized and directed to admit free of duty any article provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project being undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for the construction, installation, and operation of a sub-mm telescope in the State of Arizona if—

(A) such article is an instrument or apparatus (within the meaning of headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202)), and

(B) no instruments or apparatus of equivalent scientific value for the purposes for which such article is intended to be used is being manufactured in the United States.

(2) For purposes of paragraph 1(B), scientific testing equipment provided by the Max Planck Institute and necessary for aligning, calibrating, or otherwise testing an instrument or apparatus shall be considered to be part of such instrument or apparatus.

(b) The University of Arizona or the Max Planck Institute shall submit to the United States Customs Service and to the International Trade Administration descriptions of the articles sought to be admitted free of duty containing sufficient detail to allow the United States Customs Service to determine whether subsection (a)(1)(A) is satisfied and the International Trade Administration to determine whether subsection (a)(1)(B) is satisfied. The descriptions may be submitted in a single or in several submissions to each agency, as the University of Arizona or the Max Planck Institute deem appropriate during the course of the project. The United States Customs Service and the International Trade Administration are directed to make their respective determinations under this section within ninety days of the date the agency receives a sufficient submission of information with respect to any article.

(c) The Secretary of the Treasury is authorized and directed to readmit free of duty any article admitted free of duty under subsection (a) and subsequently returned to the Federal Republic of Germany for repair, replacement, or modification.

(d) The Secretary of the Treasury is authorized and directed to admit free of duty any repair components for articles admitted free of duty under subsection (a).

(e) If any article admitted free of duty under subsection (a) is used for any purpose other than the joint project described in subsection (a)(1) within five years after being entered, duty on the article shall be assessed in accordance with the procedures established in headnote 1 of part 4 of schedule 8 (19 U.S.C. 1202).

(f) The provisions of subsection (a) shall apply with respect to articles entered for consumption after the day which is 15 days after the date of enactment of this Act and before November 1, 1993.

SEC. 241 DUTY-FREE ENTRY FOR RESEARCH EQUIPMENT FOR NORTH DAKOTA STATE UNIVERSITY, FARGO, NORTH DAKOTA.

The research equipment that was imported for the use of North Dakota State University, Fargo, North Dakota, and entered on September 15, 1983, under entry number 83-116431-9, at Seattle, Washington, shall be considered to have been admitted free of duty as of the date of such entry. If the liquidation of such entry has become final, the Secretary of the Treasury shall reliquidate such entry and make the appropriate refund of any duty paid on such equipment.

SEC. 242. DUTY-FREE ENTRY FOR PIPE ORGAN FOR THE CRYSTAL CATHEDRAL GARDEN GROVE, CALIFORNIA.

The pipe organ which was imported for the use of the Crystal Cathedral of Garden Grove, California, and entered in six shipments between April 30, 1981, and April 8, 1982, at Los Angeles, California, shall be considered to have been admitted free of duty as of the date of each such entry. If the liquidation of any such entry has become final, the Secretary of the Treasury shall reliquidate each such entry and make the appropriate refund of any duty paid on such organ.

SEC. 243. DUTY-FREE ENTRY FOR SCIENTIFIC EQUIPMENT FOR THE ELLIS FISCHEL STATE CANCER HOSPITAL, COLUMBIA, MISSOURI

Notwithstanding any provision of the Tariff Act of 1930 or any other provisions of the law to the contrary, the Secretary of the Treasury shall reliquidate, as duty free, the entries numbered 220286 (dated November 7, 1975) and 235380 (dated January 23, 1976) made at Chicago, Illinois, and covering scientific equipment for the use of the Ellis Fischel Cancer Hospital, Columbia, Missouri, in accordance with the decision of the Department of Commerce in docket numbered 76-00199-33-00530.

SEC. 244. DUTY-FREE ENTRY OF ORGANS IMPORTED FOR THE USE OF TRINITY CATHEDRAL OF CLEVELAND, OHIO

The organs made by Flentrop Orgel Bouw, the Netherlands, that were imported for the use of Trinity Cathedral of Cleveland, Ohio, and entered during 1973-1978 shall be considered to have been admitted free of duty on the dates of entry. If the liquidation of any such entry has become final, the Secretary of the Treasury, if request therefor is filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, shall reliquidate the entry and make the appropriate refund of any duty paid.

SEC. 245. SENSE OF CONGRESS REGARDING POSSIBLE EEC ACTION ON CORN GLUTEN.

Whereas—

(1) the European Council of Ministers has directed the Commission of the European Community (EC) to initiate consultations with the United States and other interested parties under article XXVIII of the General Agreement on Tariffs and Trade (GATT) for the purpose of imposing tariff or tariff quota restrictions on imports of nongrain feed ingredients, including corn gluten feed;

(2) the EC has considered proposals to impose a domestic consumption tax on vegetable fats and oils, which would undermine the intention of the duty-free binding on certain corn and soybean products imported from the United States;

(3) the EC has bound in the GATT that it will impose no import duties on soybeans, soybean meal, corn gluten feed, and other corn by-products, and such zero-tariff bindings were agreed to in return for United States trade concessions to the EC during previous rounds of trade negotiations;

(4) the EC has not demonstrated sound economic justification for restrictions on the import of nongrain feed ingredients and such restrictions would only shift the financial burden of EC Common Agricultural Policy (CAP) reform from the EC to other countries, with negligible improvement in the current EC budget situation;

(5) action by the EC to breach a negotiated concession would severely erode the basic GATT principle of comparative advantage and set a dangerous precedent which could threaten other previously negotiated concessions and serve as a precursor to restrictions on the import of soybeans and soybean products; and

(6) the official position of the United States, as stated by the Secretary of Agriculture, is that there is strong support for the EC efforts to balance the Agricultural budget, but that the

United States will oppose any efforts to limit its exports of corn gluten feed to the EC;

it is the sense of Congress that—

(A) the President should continue to firmly oppose the imposition of any restriction on European Community imports of nongrain feed ingredients, including corn gluten, and should support the current duty-free binding on such products;

(B) the President should continue to rigorously oppose any European Community proposals which would violate the intent of the existing duty-free binding in the General Agreement on Tariffs and Trade on soybeans and soybean products and reaffirm the United States conviction that the imposition of a consumption tax on vegetable fats and oils by the European Community would represent a restraint of trade; and

(C) if unilateral action is taken by the European Community to restrict or inhibit the importation of either nongrain feed ingredients, including corn gluten feed, or vegetable fats and oils, including soybean products, the United States should act immediately to restrict European Community imports of at least the aggregate value of the reduced and potentially reduced United States export products.

SEC. 246 STUDY ON HONEY IMPORTS.

(a) The Senate finds that—

(1) in 1976 the International Trade Commission found that honey imports threatened serious injury to the domestic honey industry and recommended action to control honey imports,

(2) the domestic honey industry is essential for production of many agricultural crops,

(3) a significant part of our total diet is dependent directly or indirectly on insect pollination, and

(4) it is imperative that the domestic honey bee industry be maintained at a level sufficient to provide crop pollination.

(b) It is the sense of the Senate that the Secretary of Agriculture should promptly request the President to call for an International Trade Commission investigation of honey imports, under section 22 of the Agriculture Adjustment Act.

SEC. 247. COPPER IMPORTS.

(a) The Congress finds that—

(1) the United States International Trade Commission unanimously found that the United States copper producing industry is being seriously injured by copper imports;

(2) worldwide copper prices are at record low levels;

(3) foreign copper producers have increased their copper production inspite of depressed world prices in an effort to meet their external debt obligations;

(4) United States copper production has been reduced by over forty percent and over half of the work force has been laid off;

(5) continuation of the current depressed world price for copper threatens severe economic distress for less developed countries which are dependent on copper exports as their major source of foreign exchange;

(6) the competitivness of United States copper producers could be enhanced through the investment which could be generated if worldwide copper prices returned to more historically representative levels; and

(7) a balanced reduction in foreign copper production which raises marginally the world price for copper would not disadvantage domestic fabricators by creating a two-tier pricing system.

(b) It is the sense of Congress that the President should negotiate with the principal foreign copper-producing countries to conclude voluntary restraint agreements with those governments for the purpose of effecting a balanced reduction of total annual foreign copper production for a period of between three and five years in order to—

(1) allow the price of copper on international markets to rise modestly to levels which will permit the remaining copper operations located in the United States to attract needed capital, and

(2) achieve a secure domestic supply of copper.

(c) It is the further sense of the Congress that the President should submit a report to Congress, within twelve months of the date of enactment of this Act, explaining—

(1) the results of his negotiations; or

(2) why he felt it was inappropriate or unnecessary to undertake such negotiations.

SEC. 248. DISAPPROVAL OF PRESIDENTIAL DETERMINATIONS UNDER SECTION 203 OF THE TRADE ACT OF 1974.

(a)(1) Section 203(c)(1) of the Trade Act of 1974 (19 U.S.C. 2253(c)(1)) is amended to read as follows:

"(1) If the President reports under subsection (b) that he is taking action which differs from the action recommended by the Commission under section 201(d)(1)(A), or that he will not provide import relief, the action recommended by the Commission shall take effect (as provided in paragraph (2)) upon enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b) is transmitted to the Congress.".

(2) Section 203(c)(2) of the Trade Act of 1974 (19 U.S.C. 2253(c)(2)) is amended—

(A) by striking out "adoption of such resolution" and inserting in lieu thereof "enactment of the joint resolution referred to in paragraph (1)", and

(B) by striking out "section 201(b)" and inserting in lieu thereof "section 201(d)".

(b) Section 152(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)(A) is amended by striking out "concurrent resolution" and inserting in lieu thereof "joint resolution".

(c) Section 330(d)(4) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(4)) is amended by striking out "the concurrent resolution described in such section 152" and inserting in lieu thereof "the joint resolution described in such section 152(a)(1)(A)".

SEC. 249. SECTION 201 CRITERIA

Section 201(b) of the Trade Act of 1974 (19 U.S.C. 2251(b)) is amended—

(1) by amending paragraph (2)—

(A) by inserting "(whether maintained by domestic producers, importers, wholesalers, or retailers)" after "inventory" in subparagraph (B), and

(B) by striking out "and" at the end of subparagraph (B),

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(D) by adding at the end thereof the following:

"(D) the presence or absence of any factor which the Commission is required to evaluate in subparagraphs (A) and (B) shall not necessarily be dispositive of whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat of serious injury to the domestic industry."; and

(2) by adding at the end thereof the following new paragraph:

"(7) For purposes of this section, the term 'significant idling of productive facilities' includes the closing of plants or the underutilization of production capacity."

TITLE III—INTERNATIONAL TRADE AND INVESTMENT

SEC. 301. SHORT TITLE; AMENDMENT OF TRADE ACT OF 1974.

(a) This title may be cited as the "International Trade and Investment Act".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Trade Act of 1974.

SEC. 302. STATEMENT OF PURPOSES.

The purposes of this title are—

(1) To Foster the economic growth of, and full employment in, the United States by expanding competitive United States exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States;

(2) to improve the ability of the President—

(A) To identify and to anlayze barriers to (and restrictions on) United States Trade and investment, and

(B) to achieve the elimination of such barriers and restrictions;

(3) to encourage the expansion of—

(A) international trade in services through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers to international trade in services, and

(B) United States service industries in foreign commerce; and

(4) to enhance the free flow of foreign direct investment through the negotiation of agreements (both bilateral and mul-

tilateral) which reduce or eliminate the trade distortive effects of certain investment-related measures.

SEC. 303. ANALYSIS OF FOREIGN TRADE BARRIERS.

(a) Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.

"(a) NATIONAL TRADE ESTIMATES.—

"(1) IN GENERAL.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 shall—

"(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortions of—

"(i) United States exports of goods or services (including agricultural commodities; and property protected by trademarks, patents, and copyrights exported or licensed by United States persons), and

"(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

"(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

"(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATE.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

"(A) the relative impact of the act, policy, or practice on United States commerce;

"(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

"(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

"(D) any advice given through appropriate committees established pursuant to section 135.

"(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the International Trade and Investment Act, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

"(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include

in each report submitted under paragraph (1) information with respect to any action taken (or the reasons for no action taken) to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

"(A) any action under section 301, or

"(B) negotiations or consultations with foreign governments.

"(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

"(c) ASSISTANCE OF OTHER AGENCIES.—

"(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

"(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

"(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.".

(b) The table of contents for title I is amended by adding at the end thereof the following:

"Chapter 8—Barriers to Market Access

"Sec. 181. Actions concerning barriers to market access.".

SEC. 304. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

"(a) DETERMINATIONS REQUIRING ACTION.—

"(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

"(A) to enforce the rights of the United States under any trade agreement; or

"(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

"(i) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

"(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

"(B) without regard to whether or not such goods or sector were involved in the act, policy, or practice identified under paragraph (1).".

(b) Section 301(b) (19 U.S.C. 2411(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting ", notwithstanding any other provision of law," before "fees" in paragraph (2); and

(3) by striking out "products" in paragraph (2) and inserting in lieu thereof "goods".

(c) Section 301 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) ADDITIONAL ACTIONS ON SERVICES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law governing any service sector access authorization, and in addition to the authority conferred in subsection (b), the President may—

"(A) restrict, in the manner and to the extent the President deems appropriate, the terms and conditions of any such authorization, or

"(B) deny the issuance of any such authorization.

"(2) AFFECTED AUTHORIZATIONS.—Actions under paragraph (1) shall apply only with respect to service sector access authorizations granted, or applications therefor pending, on or after the date on which—

"(A) a petition is filed under section 302(a), or

"(B) a determination to initiate an investigation is made by the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') under section 302(c).

"(3) CONSULTATION.—Before the President takes action under subsection (b) or (c) involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult, as appropriate, with the head of the agency concerned.".

(d)(1) Section 302 (19 U.S.C. 2412) is amended to read as follows:

"SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) FILING OF PETITION.—

"(1) IN GENERAL.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request.

"(2) REVIEW OF ALLEGATIONS.—The Trade Represenatative shall review the allegations in the petition and, not later than forty-five days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATIONS.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the thirty-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner or by any interested person.

"(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

"(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

"(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.".

(2)(A) Section 141(d) is amended—

(i) by striking out "and" at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(iii) by adding at the end thereof the following new paragraph:

"(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.'.

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out "with respect to a petition";

(ii) by inserting "or the determination of the Trade Representative under section 302(c)(1)" after "in the petition"; and

(iii) by inserting "(if any)" after "petitioner".

(C) Section 304 (19 U.S.C. 2414) is amended by striking out "issues raised in the petition" and inserting in lieu thereof "matters under investigation" in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

"Sec. 302. Initiation of Investigations by United States Trade Representative.".

(e) Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting "(a) IN GENERAL.—" before "On"; and

(2) by adding at the end thereof the following new subsection:

"(b) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

(2) NOTICE AND REPORT.—The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required by section 306.".

(f)(1) Paragraph (1) of section 301(e) (19 U.S.C. 2411(e)), as redesignated by subsection (c) of this section, is amended to read as follows:

"(1) COMMERCE.—the term 'commerce' includes, but is not limited to—

"(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.".

(2) Section 301(e) (19 U.S.C. 2411(e)), as redesignated by subsection (c) of this section, is amended by adding at the end thereof the following new paragraphs:

"(3) UNREASONABLE.—The term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate and effective protection of intellectual property rights.

"(4) UNJUSTIFIABLE.—

"(A) IN GENERAL.—The term 'unjustifiable' means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) CERTAIN ACTIONS INCLUDED.—The term 'unjustifiable' includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

"(5) DEFINITION OF DISCRIMINATORY.—The term 'discriminatory' includes, where appropriate, any act, policy, or practice

which denies national or most-favored-nation treatment to United States goods, services, or investment.

"(6) SERVICE SECTOR ACCESS AUTHORIZATION.—The term 'service sector access authorization' means any license, permit, order, or other authorization, issued under the authority of Federal law, that permits a foreign supplier of services access to the United States market in a service sector concerned.".

(3) Section 301(e) (19 U.S.C. 4211(e)), as redesignated by subsection (c) of this section, is amended by striking out the heading and inserting in lieu thereof:

"(e) DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.—For purposes of this section--".

(g) Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) USE OF INFORMATION.—The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.".

SEC. 305. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICES AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.

(a)(1) Chapter 1 of title I is amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES, FOREIGN DIRECT INVESTMENT, AND HIGH TECHNOLOGY PRODUCTS.

"(a) TRADE IN SEVICES.—

"(1) IN GENERAL.—Principal United States negotiating objectives under section 102 shall be—

"(A) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United

States service sector trade in foreign markets), including barriers that deny national treatment and restrictions on the establishment and operation in such markets; and

"(B) to develop internationally agreed rules, including dispute settlement procedures, which—

"(i) are consistent with the commercial policies of the United States, and

"(ii) will reduce or eliminate such barriers or distortions and help ensure open international trade in services.

"(2) DOMESTIC OBJECTIVES.—In pursuing the objectives described in paragraph (1), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto.

"(b) FOREIGN DIRECT INVESTMENT.—

"(1) IN GENERAL.—Principal United States negotiating objectives under section 102 shall be—

"(A) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

"(B) to develop internationally agreed rules, including dispute settlement procedures, which—

"(i) will help ensure a free flow of foreign direct investment, and

"(ii) will reduce or eliminate the trade distortive effects of certain investment related measures.

"(2) DOMESTIC OBJECTIVES.—In pursuing the objectives described in paragraph (1), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto.

"(c) HIGH TECHNOLOGY PRODUCTS.—Principal United states negotiating objectives shall be—

"(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

"(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of foreign government acts, policies, or practices identified in section 181, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

"(A) foreign industrial policies which distort international trade or investment;

"(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

"(C) measures which fail to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property (including trademarks, patents, and copyrights);

"(D) measures which impair access to domestic markets for key commodity products; and

"(E) measures which facilitate or encourage anticompetitive market practices or structures;

"(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

"(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

"(5) to obtain commitments to foster national treatment;

"(6) to obtain commitments to—

"(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial participation and technical and personnel exchanges, and

"(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

"(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

"(d) DEFINITION OF BARRIERS AND OTHER DISTORTIONS.—For purposes of subsection (a), the term 'barriers to, or other distortions of, international trade in services' includes, but is not limited to—

"(1) barriers to establishment in foreign markets, and

"(2) restrictions on the operation of enterprises in foreign markets, including—

"(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.".

(2) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products.".

SEC. 306. PROVISIONS RELATING TO INTERNATIONAL TRADE IN SERVICES.

(a)(1) The Secretary of Commerce shall establish a service industries development program designed to—

(A) develop, in consultation with other Federal agencies as appropriate, policies regarding services that are designed to increase the competitiveness of United States service industries in foreign commerce;

(B) develop a data base for assessing the adequacy of Government policies and actions pertaining to services, including, but

not limited to, data on trade, both aggregate and pertaining to individual service industries;

(C) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) policies of foreign governments toward foreign and United States service industries;

(ii) Federal, State, and local regulation of both foreign and United States suppliers of services, and the effect of such regulation on trade;

(iii) the adequacy of current United States policies to strengthen the competitiveness of United States service industries in foreign commerce, including export promotion activities in the service sector.

(iv) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(v) treatment of services under international agreements of the United States;

(vi) antitrust policies as such policies affect the competitiveness of United States firms; and

(vii) treatment of services in international agreements of the United States;

(D) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies; and

(E) conduct sectoral studies of domestic service industries;

(2) For purposes of the collection and analysis required by paragraph (1), and for the purpose of any reporting the Department of Commerce makes under paragraph (3), such collection and reporting shall distinguish between income from investment and income from noninvestment services.

(3) On not less than a biennial basis beginning in 1986, the Secretary shall prepare a report which analyzes the information collected under paragraph (1). Such report shall be submitted to the Congress and to the President by not later than the date that is 120 days after the close of the period covered by the report.

(4) The Secretary of Commerce shall carry out the provisions of this subsection from funds otherwise made available to him which may be used for such purposes.

(5) For purposes of this section, the term "services" means economic activities whose outputs are other than tangible goods. Such term includes, but is not limited to, banking, insurance, transportation, communications and data processing, retail and wholesale trade, advertising, accounting, construction, design and engineering, management consulting, real estate, professional services, entertainment, education, health care, and

(b)(1) The International Investment Survey Act of 1976 (Public Law 94-472; 22 U.S.C. 3101, et seq.) is hereby redesignated the "International Investment and Trade in Services Survey Act".

(2)(A) Subsection (a) of section 2 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3301) is amended—

(i) by striking out "and" at the end of paragraph (6);

(ii) by inserting "and trade in services" after "international investment" in paragraph (7);

(iii) by redesignating paragraph (7) as paragraph (9); and

(iv) by inserting after paragraph (6) the following new paragraphs:

"(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the United States economy, and such commerce is rapidly increasing;

"(8) international trade and services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and".

(B) Subsection (b) of section 2 of such Act is amended—

(i) by inserting "and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade," after "international investment" the first place it appears; and

(ii) by inserting "and trade in services" after "international investment" the second place it appears.

(C) Subsection (c) of section 2 of such Act is amended by striking out "or United States investment abroad" and inserting in lieu thereof ", United States investment abroad, or trade in services".

(3) Paragraph (3) of section 4(a) of such Act (22 U.S.C. 3103(a)(3)) is amended—

(A) by inserting "Finance" after "to the Committees on", and

(B) by striking out "the Committee on Foreign Affairs" and inserting in lieu thereof "the Committees on Ways and Means, Energy and Commerce, and Foreign Affairs".

(4)(A) Subsection (a) of section 4 of such Act (22 U.S.C. 3103(a)) is amended—

(i) by striking out "presentation relating to international investment" in paragraph (3) and inserting in lieu thereof "presentation";

(ii) by inserting "and trade in services" after "international investment" each place it appears in paragraphs (1), (2), and (3);

(iii) by striking out "and" at the end of paragraph (3);

(iv) by redesignating paragraph (4) as paragraph (5); and

(v) by inserting after paragraph (3) the following new paragraph:

"(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services between unaffiliated United States persons and foreign persons; and".

(B) Subparagraph (C) of section 4(b)(2) of such Act is amended by inserting "(including trade in both goods and services)" after "regarding trade".

(C) Subsection (f) of section 4 of such Act is amended by inserting "and trade in services" after "international investment".

(5) Subsection (b) of section 5 of such Act (22 U.S.C. 3104) is amended by striking out "international investment" each place it appears.

(c)(1)(A) The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with this Act and other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(B) In order to encourage effective development, coordination, and implementation of United States policies on trade in services—

(i) each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(I) the treatment afforded United States service sector interest in foreign markets; or

(II) allegations of unfair practices by foreign governments or companies in a service sector; and

(ii) the Department of Commerce, together with other appropriate agencies as requested by the United States Trade Representative, shall provide staff support and other assistance for negotiations on service-related issues by the United States Trade Representatives and the domestic implementation of service-related agreements.

(C) Nothing in this paragraph shall be construed to alter any exsting authority or responsibility with respect to any specific service sector.

(2)(A) The President shall, as he deems appropriate—

(i) consult with State governments on issues of trade policy, including negotiating objectives an implementation of trade agreements, affecting the regulatory authority of non-Federal governments, or their procurement of goods and services;

(ii) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in clause (i); and

(iii) provide to State and local governments and to United States service industries, upon their request, advice, assistance, and (except as may be otherwise prohibited by law) data, analyses, and information concerning United States policies on international trade in services.

(B) Section 135 (19 U.S.C. 2155) is amended—

(i) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(ii) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representives.";

"(iii) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(iv) by inserting "government," before "labor" in subsection (j); and

(v) by adding at the end thereof the following new subsection:

"(n) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1).''; and

(vi) by inserting "or Public" after "Private" in the heading thereof.

(c)(i) Section 104(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(ii) Section 303 (19 U.S.C. 2413) and section 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(iii) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

SEC. 307. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.

(a) Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) the term 'international trade' includes—

"(A) trade in both goods and services, and

"(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.".

(b)(1) If the United States Trade Representative, with the advice of the committee established by section 242 of the Trade Expansion of 1962 (19 U.S.C. 1872), determines that action by the United States is appropriate to respond to any export performance requirements of any foreign country or instrumentality that adversely affect the economic interests of the United States, then the United States Trade Representative shall seek to obtain the reduction and elimination of such export performance requirements through consultations and negotiations with the foreign country or instrumentality concerned.

(2) In addition to the action referred to in subsection (1), the United States Trade Representative may impose duties or other import restrictions on the products or services of such foreign country or instrumentality for such time as he determines appropriate, including the exclusion from entry into the United States of products subject to such requirements.

(3) Nothing in paragraph (2) or paragraph (3) shall apply to any products or services with respect to which—

(A) any foreign direct investment (including a purchase of land or facilities) has been made directly or indirectly by any United States person before the date of enactment of this Act, or

(B) any written commitment relating to a foreign direct investment that is binding on the date of enactment of this Act has been made directly or indirectly by any United States person.

(4) Whenever the international obligations of the United States and actions taken under paragraph (2) make compensation necessary or appropriate, compensation may be provided by the United States Trade Representative subject to the limitations and conditions contained in section 123 of the Trade Act of 1974 (19 U.S.C. 2133) for providing compensation for actions taken under section 203 of that Act.

SEC. 308. NEGOTIATION OF AGREEMENTS CONCERNING HIGH TECHNOLOGY INDUSTRIES.

(a) The President may enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the objectives of this section and the negotiating objectives under section 104A(c) of the Trade Act of 1974.

(b)(1) Chapter 2 of title I is amended by inserting at the end thereof the following new section:

"SEC. 128. MODIFICATION AND CONTINUANCE OF TREATMENT WITH RESPECT TO DUTIES ON HIGH TECHNOLOGY PRODUCTS.

"(a) In order to carry out any agreement concluded as a result of the negotiating objectives under section 104A(c), the President may proclaim, subject to the provisions of chapter 3—

"(1) such modification, elimination, or continuance of any existing duty, duty-free, or excise treatment, or

"(2) such additional duties,

as he deems appropriate.

"(b) The President shall exercise his authority under subsection (a) only with respect to the following items listed in the Tariff Schedules of the United States (19 U.S.C. 1202):

"(1) Transistors (provided for in item 587.70, part 5, schedule 6).

"(2) Diodes and rectifiers (provided for in item 687.72, part 5, schedule 6).

"(3) Monolithic integrated circuits (provided for in item 687.74, part 5, schedule 6).

"(4) Other integrated circuits (provided for in item 687.77, part 5, schedule 6).

"(5) Other components (provided for in item 687.81, part 5, schedule 6).

"(6) Parts of semiconductors (provided for in item 687.85, part 5, schedule 6).

"(7) Parts of automatic data-processing machines and units thereof (provided for in item 676.52, part 4G, schedule 6) other than parts incorporating a cathode ray tube.

"(c) TERMINATION.—The President may exercise his authority under this section only during the 5-year period beginning on the date of the enactment of the International Trade and Investment Act.".

(2) The table of contents of chapter 1 title I is amended by adding at the end thereof the following new item:

"Sec. 128. Modification and continuance of treatment with respect to duties on high technology products.".

TITLE IV—TRADE WITH ISRAEL

SEC. 401. NEGOTIATION OF TRADE AGREEMENTS TO REDUCE TRADE BARRIERS.

(a) Subsection (b) of section 102 of the Trade Act of 1974 (19 U.S.C. 2112(b)) is amended—

(1) by striking out "Whenever" and inserting in lieu thereof "(1) Whenever", and

(2) by adding at the end thereof the following new paragraphs:

"(2) (A) Trade agreements that provide for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) only with Israel.

"(B) The negotiation of any trade agreement entered into under paragraph (1) with Israel that provides for the elimination or reduction of any duty imposed by the United States shall take fully into account any product that benefits from a discriminatory preferential tariff arrangement between Israel and a third country if the tariff preference on such product had been the subject of a challenge by the United States Government under the authority of section 301 of the Trade Act of 1974 and the General Agreement on Tariffs and Trade.

"(C) Nothwithstanding any other provision of this section, the requirements of subsections (c) and (e)(1) shall not apply to any trade agreement entered into under paragraph (1) with Israel that provides for the elimination or reduction of any duty imposed by the United States.

"(3) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to another country under a trade agreement entered into under paragraph (1) with such other country.

"(4)(A) Notwithstanding paragraph (2), a trade agreement that provides for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) with any country other than Israel if—

"(i) such country requested the negotiation of such an agreement, and

"(ii) the President, at least 60 days prior to the date notice is provided under subsection (e)(1)—

"(I) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

"(II) consults with such committees regarding the negotiation of such agreement.

"(B) The provisions of section 151 shall not apply to an implementing bill (within the meaning of section 151(b)) if—

"(i) such implementing bill contains a provision approving of any trade agreement which—

"(I) is entered into under this section with any country other than Israel, and

"(II) provides for the elimination or reduction of any duty imposed by the United States, and

"(ii) either—

"(I) the requirements of subparagraph (A) were not met with respect to the negotiation of such agreement, or

"(II) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproved of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under subsection (A)(ii)(I) with respect to the negotiation of such agreement.

"(C) The 60-day period described in subparagraphs (A)(ii) and (B)(ii)(II) shall be computed without regard to—

"(i) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

"(ii) any Saturday and Sunday, not excluded under clause (i), when either House of Congress is not in session.".

(b) Paragraph (1) of section 102(g) of the Trade Act of 1974 (19 U.S.C. 2112(g)) is amended to read as follows:

"(1) the term 'barrier' includes—

"(A) the American selling price basis of customs evaluation as defined in section 402 or 402a of the Tariff Act of 1930, as appropriate, and

"(B) any duty or other import restriction;".

(c)(1) Section 102 of the Trade Act of 1974 (19 U.S.C. 2112) is amended by striking out "Nontariff" in the heading.

(2) The table of contents of the Trade Act of 1974 is amended by striking out "Nontariff" in the item relating to section 102.

SEC. 402. CRITERIA FOR DUTY-FREE TREATMENT OF ARTICLES.

(a)(1) Any trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 may provide for the reduction or elimination of any duty imposed by the United States with respect to any article only if—

(A) that article is the growth, product, or manufacture of Israel or is a new or different article of commerce that has been grown, produced, or manufactured in Israel;

(B) that article is imported directly from Israel into the customs territory of the United States; and

(C) the sum of—

(i) the cost of value of the materials produced in Israel, plus

(ii) the direct costs of processing operations performed in Israel,

is not less than 35 percent of the appraised value of such article at the time it is entered.

If the cost or value of materials produced in the customs territory of the United States is included with respect to an article to which this subsection applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attrib-

utable to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (C).

(2) No article may be considered to be an eligible Israeli article by virtue of having merely undergone—

(A) simple combining or packaging operations; or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(b) As used in this section, the phrase "direct costs of processing operations" includes, but is not limited to—

(1) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(2) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (A) profit, and (B) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

(c) REGULATIONS.—The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this section.

SEC. 403. APPLICATION OF CERTAIN OTHER TRADE LAW PROVISIONS.

(a) SUSPENSION OF DUTY-FREE TREATMENT.—The President may by proclamation suspend the reduction or elimination of any duty provided under any trade agreement provision entered into with Israel under the authority of section 102(b)(1) of the Trade Act of 1974 with respect to any article and may proclaim a duty rate for such article if such action is proclaimed under section 203 of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(b) ITC REPORTS.—In any report by the United States International Trade Commission (hereinafter referred to in this title as the "Commission") to the President under section 201(d)(1) of the Trade Act of 1974 regarding any article for which a reduction or elimination of any duty is provided under a trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974, the Commission shall state whether and to what extent its findings are recommendations apply to such an article when imported from Israel.

(c) For purposes of subsections (a) and (c) of section 203 of the Trade Act of 1974, the suspension of the reduction or elimination of a duty under subsection (a) shall be treated as an increase in duty.

(d) No proclamation which provides solely for a suspension referred to in subsection (a) with respect to any article shall be made under subsections (a) and (c) of section 203 of the Trade Act of 1974 unless the Commission, in addition to making an affirmative determination with respect to such article under section 201(b) of the

Trade Act of 1974, determines in the course of its investigation under that section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the reduction or elimination of any duty provided under any trade agreement provision entered into with Israel under section 102(b)(1) of the Trade Act of 1974.

(e)(1) Any proclamation issued under section 203 of the Trade Act of 1974 that is in effect when an agreement with Israel is entered into under section 102(b)(1) of the Trade Act of 1974 shall remain in effect until modified or terminated.

(2) If any article is subject to import relief at the time an agreement is entered into with Israel under section 102(b)(1) of the Trade Act of 1974, the President may reduce or terminate the application of such import relief to the importation of such article before the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of subsections (h) and (i) of section 203 of the Trade Act of 1974.

SEC. 404. FAST TRACK PROCEDURES FOR PERISHABLE ARTICLES.

(a) If a petition is filed with the Commission under the provisions of section 201 of the Trade Act of 1974 regarding a perishable product which is subject to any reduction or elimination of a duty imposed by the United States under a trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 and alleges injury from imports of that product, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted under subsection (c) with respect to such article.

(b) Within 14 days after the filing of a petition under subsection (a)—

(1) if the Secretary of Agriculture has reason to believe that a perishable product from Israel is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(2) the Secretary of Agriculture shall publish notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(c) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action under subsection (b), he shall issue a proclamation withdrawing the reduction or elimination of duty provided to the perishable product under any trade agreement provision entered into under section 102(b)(1) of the Trade Act of 1974 or publish a notice of his determination not to take emergency action.

(d) The emergency action provided under subsection (c) shall cease to apply—

(1) upon the proclamation of import relief under section 202(a)(1) of the Trade Act of 1974;

(2) on the day the President makes a determination under section 203(b)(2) of such Act not to impose import relief;

(3) in the event of a report of the Commission containing a negative finding, on the day the Commission's report is submitted to the President; or

(4) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(e) For purposes of this section, the term "perishable product" means any—

(1) live plant provided for in subpart A of part 6 of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202, hereinafter referred to as the "TSUS");

(2) vegetable provided for in schedule 1, part 8, of the TSUS;

(3) fresh mushroom provided for in item 144.10 of the TSUS;

(4) edible nut or fruit provided for in schedule 1, part 9, of the TSUS;

(5) fresh cut flower provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

(6) concentrated citrus fruit provided for in items 165.25 and 165.35 of the TSUS.

(f) No trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 shall affect fees imposed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

SEC. 406. CONSTRUCTION OF TITLE.

Neither the taking effect of any trade agreement provision entered into with Israel under section 102(b)(1), nor any proclamation issued to implement any such provision, may affect in any manner, or to any extent, the application to any Israeli articles of section 232 of the Trade Expansion Act of 1962, section 337 of title VII of the Tariff Act of 1930, chapter 1 of title II and chapter 1 of title III of the Trade Act of 1974, or any other provision of law under which relief from injury caused by import competition or by unfair import trade practices may be sought.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES RENEWAL

SECTION 501. SHORT TITLE; STATEMENT OF PURPOSE.

(a) This title may be cited as the "Generalized System of Preferences Renewal Act of 1984".

(b) The purpose of this title is to—

(1) promote the development of developing countries, which often need temporary preferential advantages to compete effectively with industrialized countries;

(2) promote the notion that trade, rather than aid, is a more effective and cost-efficient way of promoting broad-based sustained economic development;

(3) take advantage of the fact that developing countries provide the fastest growing markets for United States exports and that foreign exchange earnings from trade with such countries through the Generalized System of Preferences can further stimulate United States exports;

(4) allow for the consideration of the fact that there are significant differences among developing countries with respect to their general development and international competitiveness;

(5) encourage the providing of increased trade liberalization measures, thereby setting an example to be emulated by other industrialized countries;

(6) recognize that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations;

(7) promote the creation of additional opportunities for trade among the developing countries;

(8) integrate developing countries into the international trading system with its attendant responsibilities in a manner commensurate with their development;

(9) encourage developing countries—

(A) to eliminate or reduce significant barriers to trade in goods and services and to investment,

(B) to provide effective means under which foreign nationals may secure, exercise, and enforce exclusive intellectual property rights, and

(C) to afford workers internationally recognized worker rights; and

(10) address the concerns listed in the preceding paragraphs in a manner that—

(A) does not adversely affect United States producers and workers, and

(B) conforms to the international obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 502. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES.

Section 501 of the Trade Act of 1974 (19 U.S.C. 2461) is amended—

(1) by inserting "through the expansion of their exports" before the semicolon at the end of paragraph (1);

(2) by striking out "and" at the end of paragraph (2);

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.".

SEC. 503. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA.

(a) Section 502(a) of the Trade Act of 1974 (19 U.S.C. 2462(a)) is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of this title, the term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.".

(b) Section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by striking out "Hungary" in the list of countries preceding paragraph (1);

(2) by inserting ", including patents, trademarks, or copyrights" after "control of such property" in paragraph (4)(A) and (B);

(3) by inserting ", including patents, trademarks, or copyrights" after "control of such property" in paragraph (4)(C);

(4) by striking out "and" at the end of paragraph (5);

(5) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and";

(6) by inserting after paragraph (7) the following new paragraph:

"(8) if such country has not taken or is not taking steps to afford internationally recognized workers rights to workers in the country (including any designated zone in that country).";

and

(7) by striking out "and (7)" in the unnumbered paragraph at the end of the subsection and inserting in lieu thereof "(7), and (8)".

(c) Section 502(c) of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and of inserting in lieu thereof the following: "and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;", and

(3) by adding at the end thereof the following new paragraphs:

"(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights;

"(6) the extent to which such country has taken action to—

"(A) reduce distorting investment practices and policies (including export performance requirements); and

"(B) reduce or eliminate barriers to trade in services; and

"(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.".

SEC. 504. REGULATIONS; ARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.

(a) Section 503(b) of the Tariff Act of 1930 (19 U.S.C. 2463(b)) is amended by inserting ", after consulting with the United States Trade Representative," immediately after "The Secretary of the Treasury" in the last sentence thereof.

(b) Section 503(c)(1)(E) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)(E)) is amended to read as follows:

"(E) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on April 1, 1984,".

SEC. 505. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) Section 504(a) of the Trade Act of 1974 (19 U.S.C. 2464) is amended—

(1) by striking out "The President" and inserting in lieu thereof "(1) The President"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1988, submit to the Congress a report on the application of sections 501 and 502(c), and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in section 502(c).".

(b) Section 504 (c) and (d) of the Trade Act of 1974 (19 U.S.C. 2464 (c) and (d)) are amended to read as follows:

"(c)(1) Subject to paragraphs (2) through (8) and subsection (d), whenever the President determines that any country—

"(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974; or

"(B) has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year;

then, not later than July 1 of the next calendar year, such country shall not be treated as a beneficiary developing country with respect to such article.

"(2)(A) Not later than January 4, 1987, and periodically therafter, the President shall conduct a general review of eligible articles based on the considerations described in section 501 or 502(c).

"(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

"(i) '1984' for '1974' in subparagraph (A), and

"(ii) '25 percent' for '50 percent' in subparagraph (B).

"(3)(A) Not earlier than January 4, 1987, the President may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

"(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

"(ii) determines, based on the considerations described in sections 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

"(iii) publishes the determination described in clause (ii) in the Federal Register.

"(B) In making any determination under subparagraph (A), the President shall give great weight to—

"(i) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(ii) the extent to which such country provides adequate and effective means under its law for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights.

"(C) Any waiver granted pursuant to this paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(D)(i) The President may not exercise the waiver authority provided under subparagraph (A) with respect to a quantity of eligible articles entered in any calendar year which exceeds an aggregate value equal to 30 percent of the total value of all articles which entered duty-free under this title during the preceding calendar year.

"(ii) The President may not exercise the waiver authority provided under subparagraph (A) with respect to a quantity of eligible articles entered from any beneficiary developing country during any calendar year beginning after 1984 which exceeds 15 percent of the total value of all articles that have entered duty-free under this title during the preceding calendar year if for the preceding calendar year such beneficiary developing country—

"(I) had a per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of $5,000 or more; or

"(II) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an appraised value of more than 10 percent of the total imports of all articles that entered duty-free under this title during that year.

"(iii) There shall be counted against the limitations imposed under clauses (i) and (ii) for any calendar year only that quantity of any eligible article of any country that—

"(I) entered duty-free under this title during such calendar year; and

"(II) is in excess of the quantity of that article that would have been so entered during such calendar year if the 1974 limitation applied under paragraph (1)(A) and the 50 percent limitation applied under paragraph (1)(B).

"(4) Except in any case to which paragraph (2)(B) applies, the President may waive the application of this subsection if, before July 1 of the calendar year beginning after the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

"(A) there has been an historical preferential trade relationship between the United States and such country,

"(B) there is treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

"(5) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of section 501 and 502, if imports of such article from such country did not exceed the limitations in paragraph (1) (after application of paragraph (2)) during the preceding calendar year.

"(6)(A) This subsection shall not apply to any beneficiary developing country which the President determines, based on the considerations described in sections 501 and 502(c), to be a least-developed beneficiary developing country.

"(B) The President shall—

"(i) make a determination under subparagraph (A) with respect to each beneficiary developing country before July 4, 1985, and periodically thereafter, and

"(ii) notify the Congress at least 60 days before any such determination becomes final.

"(7) For purposes of this subsection, the term 'country' does not include an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association.

"(d)(1) Subsection (c)(1)(B) (after application of subsection (c)(2)) shall not apply with respect to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1985.

"(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to $5,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1979.".

(c) Section 504 (19 U.S.C. 2464) is amended by adding at the end thereof the following new subsection:

"(f) If the President determines that the per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of any beneficiary developing country for any calendar year (hereafter in this paragraph referred to as the 'determination year') after 1984, exceeds an amount which bears the same ratio to $8,500 as 50 percent of the increase of the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1984—

"(1) subsection (c)(1)(B) shall be applied for the 2-year period beginning on July 1 of the calendar year succeeding the determination year by substituting "25 percent" for "50 percent", and

"(2) such country shall not be treated as a beneficiary developing country under this title after the close of such 2-year period.".

SEC. 506. EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES AND REPORTS.

(a) Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

"SEC. 505. TERMINATION OF DUTY-FREE TREATMENT AND REPORTS.

"(a) No duty-free treatment provided under this title shall remain in effect after July 4, 1993.

"(b) On or before January 4, 1990, the President shall submit to the Congress a full and complete report regarding the operation of this title.

"(c) The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country."

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 505 and inserting in lieu thereof the following:

"Sec. 505. Termination of duty-free treatment and reports.".

SEC. 507. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

(a) Title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

"The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry."

(b) The table of contents of such Act of 1974 is amended by adding after the item relating to item 505 the following:

"Sec. 506. Agricultural exports of beneficiary developing countries.".

SEC. 508. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 4, 1985.

TITLE VI—TRADE LAW REFORM

SEC 601. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C 1202 et seq.)

SEC. 602. SALES FOR IMPORTATION.

(a)(1) Section 701(a) (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that Merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 731 (19 U.S.C. 1673) is amended—

(1) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2), and

(2) by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(c) Section 735(b)(1) (19 U.S.C. 1673d(b)(1) is amended by adding ", or sales (or the likelihood of sales) for importation," after "by reason of imports".

SEC. 603. WAIVER OF VERIFICATION.

Section 703(b) (19 U.S.C. 1671b(b)) is amended by adding at the end thereof the following new paragraph:

"(3) PRELIMINARY DETERMINATION UNDER WAIVER OF VERIFICATION.—Within 55 days after the initiation of an investigation the administering authority shall cause an official designated for such purpose to review the information concerning the case received during the first 50 days of the investigation, and, if there appears to be sufficient information available upon which the determination can reasonably be based, to disclose to the petitioner and any interested party, then a party to the proceedings that requests such disclosure, all available nonconfidential information and all other information which is disclosed pursuant to section 777. Within 3 days (not counting Saturdays, Sundays, or legal public holidays) after such disclosure, the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom such disclosure was made may furnish to the administering authority an irrevocable written waiver of verification of the information received by the authority, and an agreement that it is willing to have a determination made on the basis of the record then available to the authority. If a timely waiver and agreement have been received from the petitioner and each party which is an interested party described in subparagraph (C), (D),

(E), or (F) of section 771(9) to whom the disclosure was made, and the authority finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made on an expedited basis on the basis of the record established during the first 50 days after the investigation was initiated.".

SEC. 604. TERMINATION OR SUSPENSION OF INVESTIGATION.

(a) Section 704 (19 U.S.C. 1671c) is amended—

(1) by amending subsection (a) to read as follows:

"(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the administering authority if the investigation was initiated under section 702(a).

"(2) SPECIAL RULES FOR QUANTITATIVE RESTRICTION AGREEMENTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting, with the government of the country in which the subsidy practice is alleged to occur, an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on the basis on that agreement is in the public interest.

"(B) PUBLIC INTEREST FACTORS.—In making a decision under subparagraph (A) regarding the public interest, the administering authority shall take into account—

"(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers that the imposition of countervailing duties;

"(ii) the relative impact on the international economic interests of the United States; and

"(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry.

"(C) PRIOR CONSULTATIONS.—Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall, to the extent practicable, consult with—

"(i) potentially affected consuming industries; and

"(ii) potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

"(3) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph

(1) before a preliminary determination is made by the administering authority under section 703(b).";

(2) by amending subsection (d)—

(A) by adding at the end of paragraph (1) the following: "In applying subparagraph (A) with respect to any quantitative restriction agreement under subsection (c), the administering authority shall take into account, in addition to such other factors as are considered necessary or appropriate, the factors set forth in subsection (a)(2)(B)(i), (ii), and (iii) as they apply to the proposed suspension and agreement, after consulting with the appropriate consuming industries, producers, and workers referred to in subsection (a)(2)(C)(i) and (ii).".

(B) by striking out paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (2);

(3) by amending subsection (e)(3), by striking out "all parties to the investigation" and inserting in lieu thereof "all interested parties described in section 771(9)";

(4) by amending subsection (i)(1)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) if it considers the violation to be international, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and"; and

(5) by adding at the end thereof the following new subsection:

"(k) TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 702(a) after providing notice of such termination to all parties to the investigation.".

(b) Section 734 (19 U.S.C. 1673c) is amended—

(1) by amending subsection (a) to read as follows:

"(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the adminstering authority if the investigation was initiated under section 732(a).

"(2) SPECIAL RULES FOR QUANTITATIVE RESTRICTION AGREEMENTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on the basis of that agreement is in the public interest.

"(B) PUBLIC INTEREST FACTORS.—In making a decision under subparagraph (A) regarding the public interest the administering authority shall take into account—

"(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers than the imposition of antidumping duties;

"(ii) the relative impact on the international economic interests of the United States; and

"(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise including any such impact on employment and investment in that industry.

"(C) PRIOR CONSULTATIONS.—Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall, to the extent practicable, consult with—

"(i) potentially affected consuming industries; and

"(ii) Potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

"(3) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administrative authority under section 733(b).";

(2) by amending subsection (d) to read as follows:

"(d) ADDITIONAL RULES AND CONDITIONS.—The administering authority may not accept an agreement under subsection (b) or (c) unless—

"(1) it is satisfied that suspension of the investigation is in the public interest, and

"(2) effective monitoring of the agreement by the United States is practicable.";

(3) by amending subsection (e)(3) by striking out "all parties to the investigation" and inserting in lieu thereof "all interested parties described in section 771(9)";

(4) by amending subsection (i)(1)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) if it considers the violation to be intentional, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and"; and

(5) by adding at the end thereof the following new subsection:

"(k) TERMINATION OF INVESTIGATION INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 732(a) after providing notice of such termination to all parties to the investigation.".

SEC. 605. FINAL DETERMINATION OF CRITICAL CIRCUMSTANCES.

(a)(1) Section 705(a)(2) (19 U.S.C. 1671d(a)(2)) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 703(e)(1) was negative.".

(2) Section 705(c) is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (A)(2).—If the determination of the administering authority under subsection (a)(2) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determinations by the administering authority under sections 703(b) and 703(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 703(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 703(b) was affirmative, but the preliminary determination under section 703(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 703(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 703(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 705(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Section 705(c)(3)(A) is amended by inserting "paragraph (4) or" after "under".

(b)(1) Section 735(a)(3) (19 U.S.C. 1673d(a)(3)) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 733(e)(1) was negative.".

(2) Section 735(c) is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (A)(3).—If the determination of the administering authority under subsection (a)(3) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determinations by the administering authority under sections 733(b) and 733(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 733(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 733(b) was affirma-

tive, but the preliminary determination under section 733(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 733(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 733(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 735(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Section 735(c)(3)(A) is amended by inserting "paragraph (4) or" after "under".

SEC. 606. SIMULTANEOUS INVESTIGATIONS.

Section 705(a)(1) (19 U.S.C. 1671d(a)(1)) is amended to read as follows:

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 703(b), the administering authority shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise; except that when an investigation under this subtitle is initiated simultaneously with an investigation under subtitle B, which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination under this paragraph to the date of the final determination of the administering authority in such investigation initiated under subtitle B.".

SEC. 607. COUNTERVAILING DUTIES APPLY ON COUNTRY-WIDE BASIS.

Section 706(a) (19 U.S.C. 1671e(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following new paragraph:

"(2) shall presumptively apply to all merchandise of such class or kind exported from the country investigated, except that if—

"(A) the administering authority determines there is a significant differential between companies receiving subsidy benefits, or

"(B) a State-owned enterprise is involved,

the order may provide for differing countervailing duties,".

SEC. 608. CONDITIONAL PAYMENT OF COUNTERVAILING DUTIES.

Subtitle A of title VII is amended by adding at the end thereof the following new section:

"SEC. 709. CONDITIONAL PAYMENT OF COUNTERVAILING DUTY.

"(a) IN GENERAL.—For all entries, or withdrawals from warehouse, for consumption of merchandise subject to a countervailing

duty order on or after the date of publication of such order, no customs officer may deliver merchandise of that class or kind to the person by whom or for whose account it was imported unless that person complies with the requirement of subsection (b) and deposits with the appropriate customs officer an estimated countervailing duty in an amount determined by the administering authority.

"(b) IMPORTER REQUIREMENTS.—In order to meet the requirements of this subsection, a person shall—

"(1) furnish, or arrange to have furnished, to the appropriate customs officer such information as the administering authority deems necessary for ascertaining any countervailing duty to be imposed under this subtitle,

"(2) maintain and furnish to the customs officer such records concerning such merchandise as the administering authority, by regulation, requires, and

"(3) pay, or agree to pay on demand, to the customs officer the amount of countervailing duty imposed under this subtitle on that merchandise.".

SEC. 609. INITIATION OF ANTIDUMPING DUTY INVESTIGATIONS.

Section 732(a) (19 U.S.C. 1673a(a)) is amended to read as follows:

"(a) INITIATION BY ADMINISTERING AUTHORITY.—

"(1) IN GENERAL.—An antidumping duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 731 exist.

"(2) CASES INVOLVING PERSISTENT DUMPING.—

"(A) MONITORING.—The administering authority may establish a monitoring program with respect to imports of a class or kind of merchandise from any additional supplier country for a period not to exceed one year if—

"(i) more than one antidumping order is in effect with respect to that class or kind of merchandise;

"(ii) in the judgment of the administering authority there is reason to believe or suspect an extraordinary pattern of persistent injurious dumping from one or more additional supplier countries; and

"(iii) in the judgment of the administering authority this extraordinary pattern is causing a serious commercial problem for the domestic industry.

"(B) If during the period of monitoring referred to in subparagraph (A), the administering authority determines that there is sufficient information to commence a formal investigation under this subsection regarding an additional supplier country, the administering authority shall immediately commence such an investigation.

"(C) DEFINITION.—For purposes of this paragraph, the term 'additional supplier country' means a country regarding which no antidumping investigation is currently pending, and no antidumping duty order is currently in effect, with respect to imports of the class or kinds of merchandise covered by subparagraph (A).

"(D) EXPEDITIOUS ACTION.—The administering authority and the Commission, to the extent practicable, shall expedite proceedings under this subtitle undertaken as a result of a formal investigation commenced under subparagraph (B)."

SEC. 610. DUTIES OF CUSTOMS OFFICERS.

(a) Subtitle B of title VII is amended by striking out section 739.

(b) The table of contents for such subtitle is amended by striking out—

"Sec. 739. Duties of customs officers.".

SEC. 611. REVIEWS AND DETERMINATIONS.

(a) Subtitle C (19 U.S.C. 1675) is amended—

(1) by amending the subtitle heading to read as follows:

"Subtitle C—Reviews; Other Actions Regarding Agreements

"CHAPTER 1— REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS";

(2) by amending section 751—

(A) by inserting "if a request for such a review has been received and" immediately before "after publication of notice" in that part of paragraph (1) of subsection (a) that precedes subparagraph (A); and

(B) by amending subsection (b)(1)—

(i) by striking out "704 or 734" and inserting in lieu thereof "704 (other than a quantitative restriction agreement described in subsection (a)(2) or (c)(3)) or 734 (other than a quantitative restriction agreement described in subsection (a)(2))",

(ii) by striking out ", or 735(b)," and inserting in lieu thereof ", 735(b), 762(a)(1), or 762(a)(2),", and

(iii) by adding at the end of subsection (b)(1) the following: "During an investigation by the Commission, the party seeking revocation of an antidumping order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping order."; and

(3) by adding "The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received." after the first sentence of subsection (c);

(4) by adding at the end thereof the following new chapter:

"CHAPTER 2—CONSULTATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

"SEC. 761. REQUIRED CONSULTATIONS.

"(a) AGREEMENTS IN RESPONSE OF SUBSIDIES.—Within 90 days after the administering authority accepts a quantitative restriction agreement under section 704(a)(2) or (c)(3), the President shall enter into consultations with the government that is party to the agreement for purposes of—

"(1) eliminating the subsidy completely, or

"(2) reducing the net subsidy to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.

"(b) MODIFICATION OF AGREEMENTS ON BASIS OF CONSULTATIONS.—At the direction of the President, the administering authority shall modify a quantitative restriction agreement as a result of consultations entered into under subsection (a).

"(c) SPECIAL RULE REGARDING AGREEMENTS UNDER SECTION 704(c)(3).—This chaper shall cease to apply to a quantitative restriction agreement described in section 704(c)(3) at such time as that agreement ceases to have force and effect under section 704(f) or violation is found under section 704(i).

"SEC. 762. REQUIRED DETERMINATIONS.

"(a) IN GENERAL.—Before the expiration date, if any, of a quantitative restriction agreement accepted under section 704(a)(2) or 704(c)(3) (if suspension of the related investigation is still in effect)—

"(1) the administering authority shall, at the direction of the President, initiate a proceeding to determine whether any subsidy is being provided with respect to the merchandise subject to the agreement and, if being so provided, the net subsidy; and

"(2) if the administering authority initiates a proceeding under paragraph (1), the Commission shall determine whether imports of the merchandise of the kind subject to the agreement will, upon termination of the agreement, materially injure, or threaten with material injury, an industry in the United States or materially retard the establishment of such an industry.

"(b) DETERMINATIONS.—The determinations required to be made by the administering authority and the Commission under subsection (a) shall be made under such procedures as the administering authority and the Commission, respectively, shall by regulation prescribe, and shall be treated as final determinations made under section 705 for purposes of judicial review under section 516A. If the determinations by each are affirmative, the administering authority shall—

"(1) issue a countervailing duty order under section 706 effective with respect to merchandise entered on and after the date on which the agreement terminates; and

"(2) order the suspension of liquidation of all entries of merchandise subject to the order which are entered, or withdrawn from warehouse for consumption, on or after the date of publication of the order in the Federal Register.

"(c) HEARINGS.—The determination proceedings required to be prescribed under subsection (b) shall provide that the administering

authority and the Commission must, upon the request of any interested party, hold a hearing in accordance with section 774 on the issues involved.".

(b) The table of contents for subtitle C of title VII is amended to read as follows:

"Subtitle C—Reviews; Other Actions Regarding Agreements

"Chapter 1—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 751. Administrative review of determinations.

"Chapter 2—CONSULTATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 761. Required consultations
"Sec 762. Required determinations.".

(c) 104(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671, note) is amended by adding at the end thereof the following new sentence: "A negative determination by the Commission under this paragraph shall not be based, in whole or in part, on any export taxes, duties, or other changes levied on the export of merchandise to the United States specifically intended to offset the subsidy received.".

SEC. 612. DEFINITIONS AND SPECIAL RULES.

(a) Section 771 (19 U.S.C. 1655) is amended as follows:

(1) Paragraph (4)(A) is amended by inserting before the period at the end thereof the following: "; except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principal raw agricultural product (determined on either a volume or value basis) which is included in the like domestic product, if those producers allege material injury, or threat of material injury, as a result of imports of such wine and grape products".

(2) Paragraph (7) is amended—

(A) by inserting the following new clause at the end of subparagraph (C):

"(iv) CUMULATION.—For purposes of clauses (i) and (ii), the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market.";

(B) by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—

"(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors—

"(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly

as to whether the subsidy is an export subsidy inconsistent with the Agreement),

"(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

"(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

"(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

"(V) any substantial increase in inventories of the merchandise in the United States,

"(VI) the presence of underutilized capacity for producing the merchandise in the exporting country, and

"(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

"(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to find orders under section 706 or 736, are also used to produce the merchandise under investigation.

(ii) BASIS FOR DETERMINATION.—Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidenced that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition.

(3) Paragraph (9) is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(4) Paragraph (14) is amended by striking out "at wholesale" and inserting in lieu thereof "in commercial quantities".

(5) Paragraph (17) is amended by striking out "wholesale quantities" each place it appears in the heading and the text and inserting in lieu thereof commercial quantities".

(b)(1) Section 514(a) (19 U.S.C. 1514(a)) is amended by striking out "771(9) (C), (D), and (E) of this Act." and inserting in lieu thereof "771(9) (C), (D), (E), and (F) of this Act.".

(2) Sections 704 (g)(2) and (h)(1) and 734 (g)(2) and (h)(1) (19 U.S.C. 1671c (g)(2) and (h)(1) and 1673c (g)(2) and (h)(1)) are each amended by striking out "(C), (D), or (E)" and inserting in lieu thereof "(C), (D), (E), and (F)".

(3) Section 2631(k)(2) of title 28, United States Code, is amended—

(A) by striking out "and" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D), and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(E) an association composed of members who represent parties-at-interest described in subparagraph (B), (C), or (D).".

SEC. 613. UPSTREAM SUBSIDIES.

(a) Subtitle D of title VII is amended by adding after section 771 the following new section:

"SEC. 771A. UPSTREAM SUBSIDIES.

"(a) DEFINITION.—The term 'upstream subsidy' means any subsidy described in section 771(5)(B)(i), (ii), or (iii) by the government of a country that—

"(1) is paid or bestowed by that government with respect to a product hereafter referred to as an 'input product' that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;

"(2) in the judgment of the administering authority bestows a competitive benefit on the merchandise; and

"(3) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this subsection, an association of two or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as being one country if the subsidy is provided by the customs union.

"(b) DETERMINATION OF COMPETITIVE BENEFIT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority shall decide that a competitive benefit has been bestowed when the price for the input product referred to in subsection (a)(1) for such use is lower than the price that the manufacturer or producer of merchandise which is the subject of a countervailing duty proceeding would otherwise pay for the product in obtaining it from another seller in an arms-length transaction.

(2) ADJUSTMENTS.—If the administering authority has determined in a previous proceeding that a subsidy is paid or bestowed on the input product that is used for comparison under paragraph (1), the administering authority may (A) where appropriate, adjust the price that the manufacturer or producer of merchandise which is the subject of such proceeding would otherwise pay for the product to reflect the effects of the subsidy, or (B) select in lieu of that price a price from another source.

"(c) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of a countervailing duty proceeding that an upstream subsidy is being or has been paid or bestowed regarding the merchandise under investigation, the administering

authority shall include in the amount of any countervailing duty imposed on the merchandise an amount equal to the amount of the competitive benefit referred to in subparagraph (1)(B), except that in no event shall the amount be greater than the amount of subsidization determined with respect to the upstream product.".

(b) Section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) is further amended by adding at the end thereof the following new subsection:

"(g) Whenever the administering authority has reasonable grounds to believe or suspect that an upstream subsidy, as defined in section 771A(a)(1), is being paid or bestowed, the administering authority shall investigate whether an upstream subsidy has in fact been paid or bestowed; and if so, shall include the amount of the upstream subsidy as provided in section 771A(a)(3)."

(c) Section 703 of the Tariff Act of 1930 (19 U.S.C. 1617b) is further amended by adding at the end thereof the following new subsection:

"(h) TIME PERIOD WHERE UPSTREAM SUBSIDIZATION IS INVOLVED.—

"(1) IN GENERAL.—Whenever the administering authority concludes prior to a preliminary determination under section 703(b), that there is a reasonable basis to believe or suspect that an upstream subsidy is being bestowed, the time period within which a preliminary determination must be made shall be extended to 250 days after the filing of a petition under section 702(b) or commencement of an investigation under section 702(a) (310 days in cases declared extraordinarily complicated under section 703(c)), if the administering authority concludes that such additional time is necessary to make the required determination concerning upstream subsidization.

"(2) EXCEPTIONS.—Whenever the administering authority concludes, after a preliminary determination under section 703(b), that there is a reasonable basis to believe or suspect that an upstream subsidy is being bestowed—

"(A) in cases in which the preliminary determination was negative, the time period within which a final determination must be made shall be extended to 165 days under section 705(a)(1) or 225 days under section 705(a)(2), as appropriate; or

"(B) in cases in which the preliminary determination is affirmative, the determination concerning upstream subsidization—

"(i) need not be made until the conclusion of the first annual review under section 751 of any eventual Countervailing Duty Order, or, at the option of the petitioner, or

"(ii) will be made in the investigation and the time period within which a final determination must be made shall be extended to 165 days under section 705(a)(2), as appropriate, except that the suspension of liquidation ordered in the preliminary determination shall terminate at the end of 120 days from the date of publication of that determination and not be resumed unless and until the publication of a Countervailing Duty Order under section 706(a).

There may be an extension of time for the making of a final determination under this subsection only if the administering authority determines that such additional time is necessary to make the required determination concerning upstream subsidization.".

(b) The table of contents for title VII is amended by inserting after the entry for section 771 the following:

"Sec. 771A. Upstream subsidies.".

SEC. 614. RESELLERS'S PRICE TAKEN INTO ACCOUNT IN DETERMINING PURCHASE PRICE.

Section 772(b) (19 U.S.C. 1677a(b)) is amended by inserting "a reseller or" after "date of importation, from".

SEC. 615. FOREIGN MARKET VALUE.

Section 773 (19 U.S.C. 1677b) is amended—

(1) by striking out "time of exportation of such merchandise to the United States" and inserting in lieu thereof "time such merchandise is first sold within the United States by the person for whom (or for whose account) the merchandise is imported to any other person who is not described in subsection (e)(3) with respect to such person" in subsection (a)(1);

(2) by striking out "wholesale quantities" each place it appears in the heading and the text and inserting in lieu thereof "commercial quantities"; and

(3) by adding at the end thereof the following new subsection:

"(g) EXPORTATION FROM AN INTERMEDIATE COUNTRY.—If—

"(1) a reseller purchases the merchandise from the manufacturer or producer of the merchandise,

"(2) the manufacturer or producer of the merchandise does not know (at the time of the sale to such reseller) the country to which such reseller intends to export the merchandise,

"(3) the merchandise is exported by, or on behalf of, such reseller to a country other than the United States,

"(4) the merchandise enters the commerce of such country but is not substantially transformed in such country, and

"(5) the merchandise is subsequently exported to the United States,

such country shall be treated, for purposes of this section, as the country from which the merchandise was exported:".

SEC. 616. HEARINGS.

Section 774(a) (19 U.S.C. 1677c(a)) is amended to read as follows:

"(a) INVESTIGATION HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705 or 735.

"(2) EXCEPTION.—If investigations are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that special circumstances require that a hearing be held in the course of each

of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant.".

SEC. 617. SUBSIDIES DISCOVERED DURING PROCEEDINGS.

Section 775 (19 U.S.C. 1677d) is amended by striking out "investigation" each place it appears in the text and in the heading and inserting in lieu thereof "proceeding".

SEC. 618. VERIFICATION OF INFORMATION.

Section 776(a) (19 U.S.C. 1677e(a)) is amended to read as follows:

"(a) GENERAL RULE.—The administering authority shall verify all information relied upon in making—

"(1) a final determination in an investigation,

"(2) a revocation under section 751(c), and

"(3) a review and determination under section 751(a), if—

"(A) verification is timely requested by an interested party as defined in section 771(9) (C), (D), (E), or (F), and

"(B) no verification was made under this paragraph during the 2 immediately preceding reviews and determinations under that section of the same order, finding, or notice, except that this clause shall not apply if good cause for verification is shown.

In publishing notice of any action referred to in paragraph (1), (2), or (3), the administering authority shall report the methods and procedures used to verify such information. If the administering authority is unable to verify the accuracy of the information submitted, it shall use the best information available to it as the basis for its action, which may include, in actions referred to in paragraph (1), the information submitted in support to the petition.".

SEC. 619. RECORDS OF EX PARTE MEETINGS; RELEASE OF CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by amending paragraph (3) of subsection (a) to read as follows:

"(3) EX PARTE MEETINGS.—The administering authority and the Commission shall maintain a record of any ex parte meeting between—

"(A) interested parties or other persons providing factual information in connection with a proceeding, and

"(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding,

if information relating to that proceeding was presented or discussed at such meeting. The record of such an ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the ex parte meeting shall be included in the record of the proceeding.";

(2) by striking out "submitted)" in the first sentence of subsection (b) and inserting in lieu thereof "submitted, or an officer or employee of the United States Customs Service who is directly

involved in conducting an investigation regarding fraud under this title)";

(3) by striking out the second sentence of subsection (b) and inserting in lieu thereof the following new sentence: "The administering authority and the Commission shall require that information for which confidential treatment is requested be accompanied by—

"(A) either—

"(i) a nonconfidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

"(ii) a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(B) either—

"(i) a statement which permits the administering authority to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

"(ii) a statement that the information should not be released under administrative protective order."; and

(4) by inserting "(before or after receipt of the information requested)" after "application," in subsection (c)(1)(A).

SEC. 620. SAMPLING AND AVERAGING IN DETERMINING UNITED STATES PRICE AND FOREIGN MARKET VALUE.

(a) Subtitle D of title VII (19 U.S.C. 1677a et seq.) is amended by adding immediately after section 777 the following new section:

"SEC. 777A. SAMPLING AND AVERAGING.

"(a) IN GENERAL.—For the purpose of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may—

"(1) use averaging or generally recognized sampling techniques whenever a significant volume of sales is involved or a significant number of adjustments to prices is required, and

"(2) decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

"(b) SELECTION OF SAMPLES AND AVERAGES.—The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transactions under investigation.".

(b) Subsection (f) of section 773 (19 U.S.C. 1677b(f)) is repealed.

(c) The table of contents for title VII is amended by inserting after the entry for section 777 the following:

"Sec. 777A. Sampling and averaging.".

SEC. 621. INTEREST.

Section 778 (19 U.S.C. 1677g) is amended to read as follows:

"SEC. 778. INTEREST ON CERTAIN OVERPAYMENTS AND UNDERPAYMENTS.

"(a) GENERAL RULE.—Interest shall be payable on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on and after—

"(1) the date of publication of a countervailing or antidumping duty order under this title or section 303, or

"(2) the date of a finding under the Antidumping Act, 1921.

"(b) RATE.—The rate of interest payable under subsection (a) for any period of time is the rate of interest established under section 6621 of the Internal Revenue Code of 1954 for such period.".

SEC. 622. DRAWBACKS.

(a) Title VII is amended—

(1) by striking out section 740, and

(2) by adding at the end of subtitle D the following new section:

"SEC. 779. DRAWBACKS.

"For purposes of any law relating to the drawback of customs duties, countervailing duties and antidumping duties imposed by this title shall be treated as any other customs duties.".

(b) The table of contents for such title is amended—

(1) by striking out

"Sec. 740. Antidumping duty treated as a regular duty for drawback purposes.";

and

(2) by adding at the end thereof

"Sec. 779. Drawback.".

SEC. 623. ELIMINATION OF INTERLOCUTORY APPEALS.

(a) Section 516A(a) (19 U.S.C. 1516a(a)) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) REVIEW OF CERTAIN DETERMINATIONS.—Within 30 days after the date of publication in the Federal Register of—

"(A) a determination by the administering authority, under 702(c) or 732(c) of this Act, not to initiate an investigation,

"(B) a determination by the Commission, under section 751(b) of this Act, not to review a determination based upon changed circumstances, or

"(C) a negative determination by the Commission, under section 703(a) or 733(a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that Court, contesting any factual findings or legal conclusions upon which the determination is based.".

(2) Paragraph (2)(A) is amended—

(A) by striking out "the date of publication in the Federal Register of" in the matter preceding clause (i); and

(B) by amending clauses (i) and (ii) to read as follows:

"(i) the date of publication in the Federal Register of—

"(I) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or

"(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

"(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B),".

(3) Amend paragraph (2)(B) to read as follows:

"(B) REVIEWABLE DETERMINATIONS.—The determinations which may be contested under subparagraph (A) as follows:

"(i) Final affirmative determinations by the administering authority and by the Commission under section 705 or 735 of this Act, including any negative part of such a determination (other than a part referred to in clause (ii)).

"(ii) A final negative determination by the administering authority or the Commission under section 705 or 735 of this Act, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

"(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 751 of this Act.

"(iv) A determination by the administering authority, under section 704 or 734 of this Act, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

"(v) An injurious effect determination by the Commission under section 704(h) or 734(h) of this Act.

"(vi) A determination by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.".

(4) Redesignate paragraph (3) as paragraph (4) and after paragraph (2) insert the following:

"(3) EXCEPTION.—Notwithstanding the limitation imposed by paragraph (2)(A)(ii) of this subsection, a final affirmative determination by the administering authority under section 705 or 735 of this Act may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 705 or 735 of this Act which is predicated upon the size of either the dumping margin or net subsidy determined to exist.".

(b) Title 28, United States Code, is amended as follows:

(1) Section 2636 is amended—

(A) by amending subsection (c) to read as follows:

"(c) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930 is barred unless commenced

in accordance with the rules of the Court of International Trade within the time specified in such section."; and

(B) by striking out subsection (d) and redesignating subsections (e) through (i) as (d) through (h), respectively.

(2) Section 2647 is amended to read as follows:

"§ 2647. Precedence of cases

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the Court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(3) Third, a civil action commenced under section 516 or 516A of the Tariff Act of 1930.".

SEC. 624. ADJUSTMENTS STUDY.

The Secretary of Commerce shall undertake a study of the current practices that are applied in the making of adjustments to purchase prices and exporter's sales prices under section 772 (d) and (e) (19 U.S.C. 1677a (d) and (e)) and foreign market value and constructed value under section 773 (19 U.S.C. 1677b) in determining antidumping duties. The study shall include, but not be limited to—

(1) a review of the types of adjustments currently being made;

(2) a review of private sector comments and recommendations regarding the subject that were made at congressional hearings during the first session of the ninety-eighth Congress; and

(3) the manner and extent to which such adjustments led to inequitable results.

Within one year after the date of the enactment of this Act, the Secretary of Commerce shall complete the study required under this section and shall submit to Congress a written report regarding the study and containing such recommendations as the Secretary deems appropriate regarding the need, and the means, for simplifying and modifying current practices in the making of such adjustments.

SEC. 625. INDUSTRIAL TARGETING STUDIES.

The Secretary of Commerce, the Secretary of Labor, the United States Trade Representative, and the Comptroller General of the United States shall each undertake, and submit to the Congress not later than June 1, 1985, a comprehensive study of the problem of foreign industrial targeting, whereby foreign governments adopt plans or schemes of coordinated activities to foster and benefit specific industries, and of the desirability or need to amend the United States trade laws in order to provide effective remedies for domestic industries against the adverse effects of such targeting. To the extent consistent with agency jurisidiction, such studies shall include, but are not limited to—

(1) an analysis of—

(A) whether foreign industrial targeting should be considered as an unfair trade practice under United States law;

(B) whether current law, including the remedies under title VII of the Tariff Act of 1930, adequately address the subsidy element of foreign industrial policy measures; and

(C) the extent to which foreign industrial targeting practices are significantly affecting United States commerce; and

(2) any recommended legislation considered necessary based on the study results.

SEC. 626. EFFECTIVE DATES.

(a) Except as provided in subsections (b) and (c), this Act, and the amendments made by it, shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 602, 609, 611, 612, and 620 shall apply with respect to investigations initiated by petition or by the administering authority under subtitles A and B of title VII of the Tariff Act of 1930 on or after such effective date.

(2) The amendments made by section 623 shall apply with respect to civil actions pending on, or filed on or after, the date of the enactment of this Act.

(c)(1) No provision of title VII of the Tariff Act of 1930 shall be interpreted to prevent the refiling of a petition under section 702 or 732 of that title that was filed before the date of the enactment of this title, if the purpose of such refiling is to avail the petitioner of the amendment made by section 612(a)(1).

(2) The amendment made by section 612(a)(1) shall not apply with respect to petitions filed (or refiled under paragraph (1) under section 702 or 732 of the Tariff Act of 1930 after September 30, 1986.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS AND TRADE AGENCIES

SEC. 701. UNITED STATES INTERNATIONAL TRADE COMMISSION.

The first sentence of paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 133(e)(2)) is amended to read as follows: "There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year 1985 not to exceed $28,410,000; of which not to exceed $2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.".

SEC. 702. UNITED STATES CUSTOMS SERVICE.

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b) There are authorized to be appropriated to the Department of the Treasury not to exceed $686,399,000 for the salaries and expenses of the United States Customs Service for fiscal year 1985; of which (A) $28,070,000 is for the operation and maintenance of the air interdiction program of the Service, and (B) not to exceed $15,000,000 is for the implementation of the 'Operation EXODUS' program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979.".

(2) Subsection (d) is redesignated as subsection (e).

(3) The following new subsection is inserted immediately after subsection (c):

"(d) No part of any sum that is appropriated under subsection (b) for fiscal years after September 30, 1984, may be used for administrative expenses to pay any employee of the United States Customs Service overtime pay in an amount exceeding $25,000; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service.".

SEC. 703. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

Section 141(f)(1) of the Trade Act of 1974 (19 U.S.C. 2171(f)(1)) is amended—

(1) by striking out "$11,100,000 for fiscal year 1983" and inserting in lieu thereof "$14,179,000 for fiscal year 1985"; and

(2) by striking out "$65,000" and inserting in lieu thereof "$80,000".

TITLE VIII—ENFORCEMENT AUTHORITY FOR THE NATIONAL POLICY FOR THE STEEL INDUSTRY

SEC. 801. SHORT TITLE.

This title may be cited as the "Steel Import Stabilization Act".

SEC. 802. FINDINGS AND PURPOSES.

(a) The Congress finds that—

(1) the United States steel industry has a serious need to modernize its plant and equipment in order to enhance its international competitiveness, and needs increased capital investments to effect that modernization;

(2) the ability of the domestic steel industry to be internationally competitive is, and has been, impeded by the effects of the enormous Federal budget deficit, an overvalued dollar, and increasing trade deficits, as well as serious injury due to imports of, and subsidies, dumping, and the use of other unfair and restrictive foreign trade practices regarding steel products;

(3) the extensiveness of the unfair trade practices engaged in the international market regarding such products imposes unusually harsh burdens on the United States steel industry in combating those practices through the trade remedy laws;

(4) expeditious and effective action under the President's national policy for the steel industry, including more vigorous efforts by the Executive Branch to self-initiate and pursue remedies against those practices, is needed to eliminate the adverse effects of those unfair trade practices;

(5) import relief will be ineffective and will not serve the national economic interest unless the industry during the period of relief engages in serious efforts substantially to modernize and to improve its international competitiveness; and

(6) full and effective implementation of the national policy for the steel industry will substantially improve the economy and employment in both the steel and iron ore-producing sectors.

(b) The purposes of this title are—

(1) to supplement the authority of the President to achieve the goals of the national policy for the steel industry by granting enforcement powers regarding those bilateral arrangements that are entered into or undertaken for purposes of implementing that national policy; and

(2) to make the continuation of those powers subject to the condition that the steel industry undertake a comprehensive modernization of its plant and equipment.

SEC. 803. SENSE OF CONGRESS REGARDING THE NATIONAL POLICY FOR THE STEEL INDUSTRY.

It is the sense of the Congress that—

(1) the President should, in conjunction with the authority granted under this title, implement the national policy for the steel industry in a manner to ensure that the foreign share of the United States market for steel products is commensurate with a level which would obtain under conditions of fair, unsubsidized competition; and it is further the sense of Congress that when this policy is fully implemented, it will result in a foreign share of the domestic market of 17.0 to 20.2 percent, subject to such modifications that changes in market conditions and the composition of the steel industry may require;

(2) the national policy for the steel industry should not be implemented in a manner contrary to the antitrust laws; and

(3) if the national policy for the steel industry does not produce satisfactory results within a reasonable period of time, the Congress will consider taking such legislative actions concerning steel and iron ore products as may be necessary or appropriate to stabilize conditions in the domestic market for such products.

SEC. 804. DEFINITIONS.

As used in this title—

(1) The term "bilateral arrangement" means any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement) entered into or undertaken, or previously entered into or undertaken, by the United States and any foreign country or customs union containing such quantitative limitations, restrictions, or other terms relating to the importation into, or exportation to, the United States of categories of steel products as may be necessary to implement the national policy for the steel industry.

(2) The term "national policy for the steel industry" means those actions and elements described in Executive Communication 4046, dated September 18, 1984 (printed as House Document 98-263).

(3) The term "steel industry" means producers in the United States of steel products.

SEC. 805. ENFORCEMENT AUTHORITY.

(a) Subject to section 806, the President is authorized to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations, restrictions, and other terms agreed to between the United States and steel-exporting nations as contained in bilateral arrangements. Such actions may include, but are not limited to,

requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of steel products.

(b)(1) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982, between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension, or successor agreement thereto (collectively refererred to hereinafter as "the Arrangement"), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to paragraph (2) of this subsection whenever he determines that—

(A) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average of annual United States apparent consumption specified in the Arrangement, or

(B) distortion is occurring in the pattern of United States-European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European communities articles within product categories developed by the Secretary of Commerce.

Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under paragraph (2) is requested.

(2) At the request of the Secretary of Commerce pursuant to paragraph (1), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of Commerce in such request that are entered into the United States are in accordance with the terms of the Arrangement.

(3) Nothing in this subsection may be construed as prohibiting the Secretary of Commerce from permitting the importation of additional quantities of specific products in cases where the Secretary determines that conditions of short supply or emergency economic situations related to market demand exist; except that a short supply or emergency economic situation shall not be considered to exist solely because domestic producers are unwilling to supply products at prices below their costs of production (as determined by the Secretary of Commerce).

(c) For purposes of carrying out this title, the Secretary of the Treasury may provide by regulation for the terms and conditions under which steel products may be denied entry into the United States.

SEC. 806. EFFECTIVE PERIOD OF TITLE.

(a) IN GENERAL.—Section 805 shall terminate—

(1) at the close of the fifth anniversary of the effective date of this title; or

(2) at the close of the first, second, third, or fourth anniversary of the effective date of this title, unless the President, before each such anniversary, submits to the Committee on Ways and

Means of the House of Representatives and the Committee on Finance of the Senate (in writing and together with the reasons therefor) an affirmative annual determination described in subsection (b).

(b)(1) An affirmative annual determination is a determination by the President that—

(A) the major companies of the steel industry, taken as a whole, have, during the 12-month period ending at the close of an anniversary referred to in subsection (a)(2)—

(i) committed substantially all of their net cash flow from steel product operations for purposes of reinvestment in, and modernization of, that industry through investment in modern plant and equipment, research and development, and other appropriate projects, such as working capital for steel operations and programs for the retraining of workers; and

(ii) taken sufficient action to maintain their international competitiveness, including action to produce price-competitive and quality-competitive products, to control costs of production, including employment costs, and to improve productivity; and

(B) each of the major companies committed for the applicable 12-month period not less than 1 percent of net cash flow to the retraining of workers; except that this requirement may be waived by the President with respect to a major company in noncompliance, if he finds unusual economic circumstances exist with respect to that company; and

(C) the enforcement authority provided under section 905 remains necessary to maintain the effectiveness of bilateral arrangements undertaken to eliminate unfair trade practices in the steel sector.

(2) For purposes of this subsection—

(A) the term "major company" means an enterprise whose raw steel production in the United States during 1983 exceeded 1,500,000 net tons.

(B) The term "net cash flow" means annual net (after-tax) income plus depreciation, depletion allowances, amortization, and changes in reserves minus dividends and payments on short-term and long-term debts and liabilities.

(3) For purposes of carrying out this subsection, the President shall take into account such information as may be available from the United States International Trade Commission and other appropriate sources relating to the modernization efforts of the steel industry.

SEC. 807. DEPARTMENT OF LABOR WORKER ASSISTANCE PLAN.

Within 6 months after the effective date of this title, the Secretary of Labor shall prepare (in consultation with the Steel Advisory Committee established on November 3, 1983, by the Secretary of Commerce and the Secretary of Labor (48 F.R. 51165)) and submit to the Congress a proposed plan of action for assisting workers in communities that are adversely affected by imports of steel products; which assistance shall include retraining and relocation for former workers in the steel industry who will likely be unable to return to

employment in that industry. The plan required under this section shall be based upon existing authorities for providing such assistance, but shall be accompanied by such recommendations for additional statutory authority as the Secretary of Labor considers necessary to carry out the purposes of the plan.

SEC. 808. EFFECTIVE DATE.

This title shall take effect on October 1, 1984.

TITLE IX—WINE TRADE

SEC. 901. SHORT TITLE.

This title may be cited as the "Wine Equity and Export Expansion Act of 1984".

SEC. 902. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) Congress finds that—

(1) there is a substantial imbalance in international wine trade resulting, in part, from the relative accessibility enjoyed by foreign wines to the United States market while the United States wine industry faces restrictive tariff and nontariff barriers in virtually every existing or potential foreign market;

(2) the restricted access to foreign markets and the continued low prices for United States wine and grape products adversely affect the economic position of our Nation's winemakers and grape growers, as well as all other domestic sectors that depend upon wine production;

(3) the competitive position of United States wine in international trade has been weakened by foreign trade practices, high domestic interest rates, and unfavorable foreign exchange rates;

(4) wine consumption per capita is very low in many major non-wine producing markets and the demand potential for United States wine is significant; and

(5) The United States winemaking industry has the capacity and the ability to export substantial volumes of wine and an increase in United States wine exports will create new jobs, improve this Nation's balance of trade, and otherwise strengthen the national economy.

(b) The purposes of this title are—

(1) to provide wine consumers with the greatest possible choice of wines from wine-producing countries;

(2) to encourage the initiation of an export promotion program to develop, maintain, and expand foreign markets for United States wine; and

(3) to achieve greater access to foreign markets for United States wine and grape products through the reduction or elimination of tariff barriers and nontariff barriers to (or other distortions of) trade in wine.

SEC. 903. DEFINITIONS.

For purposes of this title—

(1) The term "Committtees" means the Committee on Way and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) The term "grape product" means grapes and any product (other than wine) made from grapes, including, but not limited to, raisins and grape juice, whether or not concentrated.

(3) The term "major wine trading country" means any foreign country, or group of foreign countries, designated as such under section 904.

(4) The phrase "nontariff barrier to (or other distortion of)", in the context of trade in United States wine, includes any measure implemented by the government of a major wine trading country that either gives a competitive advantage to the wine industry of that country or restricts the importation of United States wine into that country.

(5) The term "Trade Representative" means the United States Trade Representative.

(6) The term "United States wine" means wine produced within the customs territory of the United States.

(7) The term "wine" means any fermented alcoholic beverage that—

(A) is made from grapes or other fruit;

(B) contains not less than 0.5 percent alcohol by volume and not more than 24 percent alcohol by volume, including all dilutions and mixtures thereof by whatever process produced; and

(C) is for nonindustrial use.

SEC. 904. DESIGNATION OF MAJOR WINE TRADING COUNTRIES.

(a) The Trade Representative shall designate as a major wine trading country each foreign country, or group of foreign countries represented as an economic union, that, in the judgment of the Trade Representative—

(1) is a potential significant market for United States wine; and

(2) maintains tariff barriers on nontariff barriers to (or other distortions of) trade in United States wine.

(b) In deciding, for purposes of subsection (a)(2), whether a foreign country or group of countries maintains nontariff barriers to (or other distortions of) trade in United States wine, the Trade Representative shall take into account—

(1) the review and report required under section 854(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2135 note);

(2) such relevant actions that may have been taken by that country or group since that review was conducted; and

(3) such information as may be submitted under section 906 by representatives of the wine and grape products industries in the United States, as well as other sources.

SEC. 905. ACTIONS TO REDUCE OR ELIMINATE TARIFF AND NONTARIFF BARRIERS AFFECTING UNITED STATES WINE.

(a) The President shall direct the Trade Representative to enter into consultations with each major wine trading country to seek a reduction or elimination of that country's tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine.

(b)(1) the President shall notify each of the Committees regarding the extent and effect of the efforts undertaken since the submission

of the report required under section 854(a) of the Trade Agreements Act of 1979, and during the 12-month period beginning on the date of the enactment of this Act, to expand opportunities in each major wine trading country for exports of United States wine. Such notification, which shall be in the form of a separate written report (that must be submitted within 30 days after the close of that 12-month period) for each major wine trading country, shall include—

(A) a description of each act, policy, and practice (and of its legal basis and operation) in that country that constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine (and that description shall be based upon an updating of the report that was submitted to the Congress under section 854(a) of the Trade Agreements Act of 1979);

(B) an assessment of the extent to which each such act, policy, or practice is subject to international agreements to which the United States is a party;

(C) information with respect to any action taken, or proposed to be taken, under existing authority to eliminate or reduce each such act, policy, or practice, including, but not limited to—

(i) any action under the Trade Act of 1974, and

(ii) any negotiation or consultation with any foreign government;

(D) if action referred to in subparagraph (C) was not taken, an explanation of the reasons therefore; and

(E) recommendations to the Congress of any additional legislative authority or other action which the President believes is necessary and appropriate to obtain in elimination or reduction of foreign tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

(2) The reports required under paragraph (1) shall be developed and coordinated by the Trade Representative through the interagency trade organization established by section 242(a) of the Trade Expansion Act of 1962.

(c) If the President, after taking into account information and advice received under subsections (a) and (b), section 906 or from other sources, determines that action is appropriate to respond to any act, policy or practice of a major wine trading country constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine and—

(1) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement; or

(2) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce; the President, shall take all appropriate and feasible action under the Trade Act of 1974 to enforce the rights of the United States under any such trade agreement or to obtain the elimination of such act, policy, or practice.

SEC. 906. REQUIRED CONSULTATIONS.

The Trade Representative shall consult with the Committees and with representatives of the wine and grape products industries in the United States—

(1) before identifying tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine and designating major wine trading countries under section 1004;

(2) in developing the reports required under section 1005(b); and

(3) for purposes of determining whether action by the President is appropriate under any provision of the Trade Act of 1974 with respect to any act, policy, or practice referred to in section 1005(b)(1).

SEC. 907. UNITED STATES WINE EXPORT PROMOTION.

In order to develop, maintain, and expand foreign markets for United States wine, the President is encouraged to—

(1) utilize, for the fiscal year ending September 30, 1985, the authority provided under section 135 of the Omnibus Budget Reconciliation Act of 1982 to make available sufficient funds to initiate, in cooperation with nongovernmental trade associations representative of United States wineries, an export promotion program for United States; and

(2) request, for each subsequent fiscal year, an appropriation for such a wine export promotion program that will not be at the expense of any appropriations requested for export promotion programs involving other agriculture commodities.

And the House agree to the same.

DAN ROSTENKOWSKI,
JAMES JONES,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,
KENT HANCE,
BARBER B. CONABLE, Jr.,
GUY VANDER JAGT,
BILL ARCHER,
BILL FRENZEL,

For consideration of title XI of the House Amendment to the Senate Amendment and sections 255, 302, 304(b)(2), 306(b), 402, and title IX of the Senate Amendment:

From the Committee on Energy and Commerce:

JOHN D. DINGELL,
JAMES J. FLORIO,
JAMES T. BROYHILL,

From the Committee on Foreign Affairs:

DON BONKER,
DAN MICA,
TOBY ROTH,
Managers on the Part of the House.

BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
JOHN DANFORTH,
LLOYD BENTSEN,
SPARK M. MATSUNAGA,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendments of the Senate to the bill (H.R. 3398) to amend the trade laws, authorize the negotiation of trade agreements, extend trade preferences, change the tariff treatment with respect to certain articles and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out all of the Senate amendment after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUBJECT: MISCELLANEOUS TARIFF, TRADE, AND CUSTOMS MATTERS

TITLE I—TARIFF SCHEDULES AMENDMENTS

Section 111: Coated textile fabrics

House bill

Provides for the reclassification of textile fabrics and articles, coated, filled or laminated with rubber or plastics (previously covered under part 12 of schedule 7) to part 4C of schedule 3, resulting in increase in duties and imposition of import restraints under the MFA.

Senate bill

Identical to House provision.

Conference agreement

Technical correction (delete "of part 12 headnote" from paragraph (c)).

Section 112: Warp knitting machines

House bill

Provides permanent column 1 duty-free treatment for warp knitting machines and parts thereof entered after June 30, 1983.

Senate bill

Identical in substance to House provision; differences in drafting style.

Conference agreement

The conferees agreed to the Senate provision.

Section 113: Certain gloves

House bill

Provides for the reclassification of certain rubber or plastic work or dress gloves resulting in increase in duties.

Senate bill

Identical in substance to House provision; differences in drafting style.

Conference agreement

The conferees agreed to the Senate provision.

Section 114: Pet toys

House bill

Provides for uniform column 1 duty of 8.5% ad valorem on imported toys for pets, of textile materials, the same rate of duty currently assessed on toys for pets, of rubber or plastics.

Senate bill

Identical to House provision except for typographical error.

Conference agreement

The conferees agreed to the House provision.

Section 115: Water chestnuts and bamboo shoots

House bill

No provision.

Senate bill

Provides for permanent column 1 duty-free treatment for water chestnuts and bamboo shoots retroactive to June 30, 1983.

Conference agreement

The conferees agreed to the Senate provision.

Section 116: Gut for use in manufacture of sterile surgical sutures

House bill

Reduces the column 1 rate of duty for gut imported for use in the manufacture of surgical sutures from 11.2% ad valorem to 5.4% ad valorem. That rate is subsequently reduced in annual stages to 3.5% ad valorem, on January 1, 1987.

Senate bill

Identical in substance to House provision; differences in drafting style.

Conference agreement

The conferees agreed to the Senate provision subject to correction of a typographical error; the reference to item 792.20 should have read "792.22".

Section 117: Orange juice products

House bill

Provides for reclassification of orange juice to delineate between concentrated and nonconcentrated orange juice resulting in increased column 1 duties for concentrated and reconstituted orange juice, effective 15 days after enactment.

Senate bill

Identical in substance except Senate bill is effective March 31, 1985.

Conference agreement

The conferees agreed to the Senate provision with a technical amendment and with an effective date of January 1, 1985.

Section 118: Reimportation of certain articles originally imported duty free

House bill

Modifies item 801.00 of the TSUS to provide for permanent duty-free treatment of articles imported under lease or similar use agreements, if previously imported duty-paid. Effective 15 days after enactment.

Senate bill

Modifies item 801.00 of the TSUS to provide for permanent duty-free treatment of articles exported under lease to a foreign manufacturer reimported into the United States if previously entered duty-free under the Caribbean Basin Economic Recovery Act or the Generalized System of Preferences. The legislation is retroactive to June 1, 1982.

Conference agreement

The conferees agreed to make both amendments to item 801.00.

Section 124: Telecommunications product classification

House bill

No provision.

Senate bill

Revises the provisions of the Tariff Schedules applicable to telecommunications products, without changes in rates of duty, in order to better reflect the state of current technology in such products in the TSUS.

Conference agreement

The conferees agreed to the Senate provision with technical corrections. The conferees agreed to delete subsection (c) concerning modification of Schedule B. However, it is expected that the interagency Committee for Statistical Annotation of Tariff Schedules will modify Schedule B effective January 1, 1985, to make it comparable with the TSUS as modified by this provision, in accordance with the mandate of section 484(e) of the Tariff Act of 1930, as amended.

Section 125: Fresh asparagus

House bill

Provides for a 20% ad valorem reduction in the column 1 rate of duty on certain fresh or chilled asparagus air freighted to the United States and entered between September 15 and November 15 in any year.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision with technical amendments.

Section 126: Chipper knife steel

House bill

Provides permanent column 1 duty-free treatment for imports of chipper knife steel which is not cold formed, effective April 1, 1985.

Senate bill

No provision.

Conference agreement

The conferees agreed to stage in the permanent duty-free treatment over a 2 year period. Effective April 1, 1985 the column 1 rate will be reduced to 2% ad valorem. Effective April 1, 1986 the rate will go to free.

Section 127: Implementation of Customs Convention on Containers, 1972

House bill

Amends the TSUS (item 808.00) and the Tariff Act of 1930 to provide for the duty-free entry of repair parts, accessories and equipment of temporarily admitted containers, thereby bringing the U.S. customs treatment into conformity with the Customs Convention on Containers, 1972, effective upon proclamation by the President.

Senate bill

Identical to House provision except Senate effective date is January 4, 1985.

Conference agreement

The conferees agreed to the House provision.

Section 131: Fresh, chilled, or frozen Brussels sprouts

House bill

Provides for a temporary, reduction of the column 1 rate of duty on certain fresh, chilled, or frozen Brussels sprouts, until December 30, 1987.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 132: Beta-naphthol

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on beta-naphthol.

Senate bill

Indentical to House provision except Senate expiration date is December 31, 1986.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 133: 4-Chloro-3-methylphenol

House bill

Extends expired duty suspension on 4-chloro-3-methyphenol entered after June 30, 1984, until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 134: Tetraamino biphenyl

House bill

Provides for temporary suspension of column 1 duty on 3,3'-diaminobenzidine until September 30, 1988.

Senate bill

Identical to House provision except Senate description is tetraamino biphenyl and expiration date is December 31, 1988.

Conference agreement

The conferees agreed to House provision with expiration date of December 31, 1988.

Section 135: 6-Amino-1-naphthol-3-sulfonic acid

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on 6-amino-1-naphthol-3-sulfonic acid.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1986.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 136: DSA

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on 2-(4-aminophenyl)-6-methylbenzothiazole-7-sulfonic acid.

Senate bill

Identical to House provision except Senate expiration date is December 21, 1986.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 137: Guanidines

House bill

Provides for temporary suspension of column 1 duty on diphenlyl guanidine and di-ortho-tolyl guanidine until Septemper 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with a technical correction and with an expiration date of December 31, 1987.

Section 138: Certain antibiotics

House bill

Provides for temporary suspension of column 1 duty on (6R,7R)-7-[(R)-2-amino-2-phenylacetamido]-3-methyl-8-oxo-5-thia-1-azabicyclo [42.0] oct-2-ene-2-carboxylic acid desolvate until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1986.

Conference agreement

The conferees agreed to House provision with expiration date of December 31, 1987.

Section 139: Acetylsulfaguanidine

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on acetylsulfaguanidine.

Senate bill

Identical to House provision except Senate provides "free" instead of "no charge" in column 2 and has an expiration date of December 31, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 140: Fenridazon-potassium

House bill

Provides for temporary suspension of column 1 duty on mixtures of potassium 1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylate ("fenridazon-potassium") and formulation adjuvants until September 30, 1987.

Senate bill

Identical to House provision except Senate provision is not retroactive and expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 141: Uncompounded allyl resins

House bill

Extends expired suspension of duty on uncompounded allyl resins until September 30, 1986.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1986 and effective date is 15 days after enactment while House effective date is September 30, 1984.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 142: Sulfamethazine

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on sulfamethazine.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 143: Sulfaguanidine

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on sulfamethazine.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 144: Terfenadine

House bill

Provides for temporary suspension of column 1 duty on terfenadine until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1986.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 145: Sulfathiazole

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on sulfathiazole and repeals subsections 136 (b) and (c) of P.L. 97-446.

Senate bill

Temporary suspension of column 1 duty until December 31, 1986 on sulfathiazole, retroactive to December 31, 1983.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 146: Sulfaquinoxaline and sulfanilamide

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on sulfaquinoxaline and sulfanilamide.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 147: Dicyclomine hydrochloride and mepenzolate bromide

House bill

Provides for temporary suspension of column 1 duty on mepenzolate bromide and dicyclomine hydrochloride until September 30, 1987.

Senate bill

Identical to House provision except Senate provides separate provisions and Senate expiration date for mepenzolate bromide is December 31, 1987 and for dicyclomine hydrochloride is June 30, 1986.

Conference agreement

The conferees agreed to the House Provision with an expiration date of December 31, 1987.

Section 148: Amiodarone

House bill

Provides for a temporary suspension of the column 1 rate of duty on amiodarone, until September 30, 1987.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House Provision with an expiration date of December 31, 1987.

Section 149: Desipramine hydrochloride

House bill

Provides for temporary suspension of column 1 duty on desipramine hydrochloride until September 30, 1987.

Senate bill

Identical to House provision except expiration date is December 31, 1987.

Conference agreement

The conferees agreed to the Senate provision.

Section 150: Clomiphene citrate

House bill

Provides for temporary suspension of column 1 duty on clomiphene citrate until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1986.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 151: Yttrium bearing materials and compounds

House bill

Provides for temporary suspension of column 1 duty on yttrim bearing materials and compounds containing by weight more than 19% but less than 85% yttrium oxide equivalent until June 30, 1988.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1989.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1988.

Section 152: Tartaric acid and chemicals

House bill

Extends suspension of duty until June 30, 1988 on tartaric acid, potassium salts, cream of tartar and sodium tartrate (Rochelle salts).

Senate bill

Identical to House provision except Senate provision does not allow for retroactive treatment back to June 30, 1984.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1988.

Section 153: Certain mixtures of magnesium chloride and magnesium nitrate

House bill

Provides for temporary suspension of column 1 duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, and magnesium nitrate until September 30, 1987.

Senate bill

Identical to Houe provision except Senate provision is not retroactive and expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 154: Nicotine resin complex

House bill

Provides for temporary suspension of column 1 duty on nicotine resin complex until September 30, 1987.

Senate bill

Identical to House provision except Senate has different item number and expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 155: Rifampin

House bill

Provides for temporary suspension of column 1 duty on rifampin until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 156: Lactulose

House bill

Provides for temporary suspension of column 1 duty on lactulose until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 157: Iron-dextran complex

House bill

Provides for temporary suspension of column 1 duty on iron-dextran complex until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 158: Natural graphite

House bill

Extends existing suspension of duty on natural graphite until December 31, 1987.

Senate bill

Identical to House provision except for typographical error.

Conference agreement

The conferees agreed to the House provision.

Section 159: Zinc

House bill

Extends the expired duty suspension on zinc-bearing ores, zinc dross and zinc skimmings, zinc-bearing materials and zinc waste and scrap, entered after June 30, 1984, until June 30, 1989.

Senate bill

Identical to House provision.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1989.

Section 160: Certain diamond tool blanks

House bill

Provides for a temporary suspension of the column 1 rate of duty for tool blanks and drill blanks, wholly or in chief value of industrial diamonds until September 30, 1987.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 161: Clock radios

House bill

Extends expired duty suspension on clock radios until September 30, 1986.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1985, and Senate effective date is 15 days after date of enactment, while House date is September 30, 1984.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1986.

Section 162: Lace-braiding machines

House bill

Provides for temporary suspension of column 1 duty on decorative lace-braiding machines using the Jacquard system and parts thereof until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 163: Certain magnetron tubes

House bill

Provides temporary suspension of column 1 duty on magnetron tubes with an operating frequency of 2.450 GHz and a mimimum power of at least 300 watts and a maximum power not greater than 2,000 watts until December 31, 1986.

Senate bill

Identical to House provision except for typographical error.

Conference agreement

The conferees agreed to the House provision.

Section 164: Narrow fabric looms

House bill

Provides for temporary suspension of column 1 duty on narrow fabric looms until September 30, 1987.

Senate bill

Identical in substance to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 165: Umbrella frames

House bill

Provides for a temporary suspension of the column 1 rate of duty on frames for hand-held umbrellas chiefly used for protection against rain, until September 30, 1985.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the Senate provision with expiration date of December 31, 1986.

Section 166: Crude feathers and down

House bill

Extends expired duty suspension applicable to crude feathers and down from June 30, 1984 to June 30, 1987.

Senate bill

Identical in substance to House provision; differences in drafting style.

Conference agreement

The conferees agreed to the House provision with technical amendments and expiration date of December 31, 1987.

Section 167: Canned corned beef

House bill

Provides temporary reduction of column 1 duty to 3% ad valorem for canned corned beef entered after October 30, 1983, until October 29, 1989.

Senate bill

Identical except for typographical error and expiration date of December 31, 1989.

Conference agreement

The conferees agreed to the Senate provision with the typographical correction.

Section 168: Hovercraft skirts

House bill

Extends the expired duty suspension on textile fabrics for hovercraft skirts entered after June 30, 1983, until June 30, 1986.

Senate bill

Identical to House provision except for technical amendment.

Conference agreement

The conferees agreed to the Senate provision with an expiration date of December 31, 1987.

Section 169: Disposable surgical drapes and sterile gowns

House bill

Equalizes the rates of duty between certain paper products and nonwoven man-made fiber articles by temporarily reducing the duty on bonded fiber fabric disposable sterile gowns of man-made fibers and boned fiber fabric disposable surgical drapes of man-made fibers, until January 1, 1989.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

Section 170: MXDA

House bill

Provides for temporary suspension of column 1 duty on m-xylenediamine (MXDA) and 1,3-bis[aminomethyl]cyclohexane (1,3-BAC), until June 30, 1986.

Senate bill

Identical to House provision except for item number for MXDA and Senate expiration date of June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 171: 4,4'-Bis(alpha,alpha-dimethylbenzyl)diphenylamine

House bill

Provides for temporary suspension of column 1 duty on 4,4'-bis(alpha, alpha-dimethylbenzyl)diphenylamine, until June 30, 1987.

Senate bill

Identical to House provision except for item number and Senate expiration date of June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 172: Flecainide acetate

House bill

Provides for temporary suspension of column 1 duty on flecainide acetate, until June 30, 1986.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 173: Caffeine

House bill

Extends expired reduction of column 1 duty to 4.1% ad valorem for caffeine entered after December 31, 1983, until December 31, 1985.

Senate bill

Identical in substance to House provision; differences in drafting style.

Conference agreement

The conferees agreed to the House provision with technical amendments and expiration date of December 31, 1987.

Section 174: Watch crystals

House bill

Provides for temporary reduction of column 1 and LDDC rates of duty on watch glasses other than round watch glasses (watch crystals) for a three year period. Provides for a staged rate reduction from 6.2% ad valorem upon enactment to 5.2% ad valorem on January 1, 1986.

Senate bill

Substantially identical to House except Senate provides for column 1 duty rate of 5.2% by January 1, 1987.

Conference agreement

The conferees agreed to the House provision with technical amendments and with an expiration date of December 31, 1987.

Section 175: Unwrought lead

House bill

Extends expired temporary suspension of duty on unwrought lead entered after June 30, 1983, until June 30, 1986.

Senate bill

Identical to House provision except P.L. 96-609 expiration date is July 1, 1986 instead of July 1, 1988.

Conference agreement

The conferees agreed to the House provisions with an expiration date of December 31, 1988.

Section 176: Flat knitting machines

House bill

Extends the expired duty suspension on power-driven flat knitting machines entered after June 30, 1983, until June 30, 1988, and provides such duty-free treatment for parts of such machines.

Senate bill

Identical in substance to House provision; differences in drafting style.

Conference agreement

The conferees agree to the House provision with technical amendments and expiration date of December 31, 1988.

Section 177: Certain menthol feedstocks

House bill

No provision.

Senate bill

Provides for temporary suspension of column 1 duty on certain menthol feedstocks, i.e., mixtures containing not less than 90% by

weight of stereoisomers, of 2-iso-propyl-5-methylcyclohexanol, but containing not more than 30% by weight of any one such stereoisomer, until June 30, 1987.

Conference agreement

The conferees agreed to the Senate provision, subject to the correction of technical errors. The expiration date was changed to December 31, 1987.

Section 178: 2-Methyl-4-chlorophenol

House bill

No provision.

Senate bill

Provides for temporary suspension of column 1 duty on 2-methyl-4-chlorophenol until December 31, 1987.

Conference agreement

The conferees agreed to the Senate provision with a technical correcton.

Section 179: Unwrought alloys of cobalt

House bill

No provision.

Senate bill

Extends expired suspension of duty on unwrought alloys of cobalt entered after June 30, 1983, until June 30, 1985.

Conference agreement

The conferees agreed to the Senate provision with an expiration date of December 31, 1987.

Section 180: Circular knitting machines

House bill

No provision.

Senate bill

Provides for temporary suspension of column 1 duty until December 31, 1989 on certain circular knitting machines, i.e., cylinder and dial machines designed for sweater strip or garment length knitting and double cylinder machines for sweater strip or garment length knitting.

Conference agreement

The conferees agreed to the Senate provision with technical amendments.

Section 181: o-Benzyl-p-chlorophenol

House bill

No provision.

Senate bill

Provides for temporary suspension of column 1 duty on o-benzyl-p-chlorophenol until December 31, 1987.

Conference agreement

The conferees agreed to the Senate provision.

Section 182: Certain benzenoid chemicals

House bill

No provision.

Senate bill

Provides for temporary suspension of duty until June 30, 1986 on trichlorosalicylic acid, m-aminophenol, 6-amino-1-naphthol-3-sulfonic acid and 4-acetaminobenzenesulfonyl chloride.

Conference agreement

The conferees agreed to the Senate provision with technical corrections. The expiration date was changed to December 31, 1987.

Section 183: M-Toluic acid

House bill

No provision.

Senate bill

Extends permanent column 1 duty-free treatment to meta-toluic acid, a chemical used to manufacture certain insect repellents.

Conference agreement

The conferees agreed to suspend the column 1 rate of duty on meta-toluic acid until December 31, 1987.

Section 191(a)-(d): Technical and conforming amendments

House bill

Make a nunber of retroactive amendments to the TSUS to correct purely technical errors in the schedules.

Senate bill

No provision.

Conference agreement

The Conferees agreed to the House provision.

Section 191(e): Technical amendment

House bill

No provision.

Senate bill

Technical amendment to General Headnote 3(a)(i) correcting a cross-reference error.

Conference agreement

The conferees agreed to the Senate provision, subject to correction of a typographical error.

Section : Apple and pear juice

House bill

Amends the Tariff Schedules of the United States to impose a column 1 rate of duty of 0.1 cent per gallon on imports of apple or pear juice.

Senate bill

No provision.

Conference agreement

The conferees agreed to delete the provision.

Section : Classification of certain cordage

House bill

Amends the Tariff Schedules of the United States to establish equal duty rates for various cordage products of virtually identical characteristics. The amendment would modify the definitions of "plexiform filaments" and "strips" resulting in certain cordage products which are currently classified as articles of rubber or plastics in schedule 7 of the TSUS being classified as textile products in schedule 3 at substantially higher rates of duty and subjecting such products to textile restraints and under the MFA.

Senate bill

No provision.

Conference agreement

The conferees agreed to delete the provision.

Section : Ferroalloys

House bill

No provision.

Senate bill

Provides duty increase for ferroalloys. The duty increase is in the amount of the "fair price differential" between the price of the imported product and the comparable domestic product. The "fair price", is to be determined annually by the Secretary of Commerce.

Conference agreement

The conferees agreed to delete the provision.

Section : Melamine

House bill

No provision.

Senate bill

Provides for temporary column 1 duty increase on melamine of additional 5.1% ad valorem, increased to 5.3% ad valorem effective on or after January 1, 1986, and on or before December 31, 1986.

Conference agreement

The conferees agreed to delete the provision.

Section : Classification of naphtha

House bill

Provides for reclassification of naphthas derived from petroleum, shale oil, natural gas, or combinations thereof (to equalize the tariff treatment of naphthas currently provided for as petroleum products and those classified as benzenoid chemicals) at the lower petroleum product rates of duty. Addition of new provision for "motor fuel blending stock" at motor fuel rates of duty resulting in a further reduction of duty for certain benzenoid chemicals.

Senate bill

Amends TSUS to add of tariff-rate quota of 190,000,000 pounds per year for naphthas derived from petroleum, shale oil, natural gas, or combinations thereof, containing by weight over 5 percent of benzenoid products, provided for in TSUS item 407.16, at below quota rates of 0.25 cent per gallon (col. 1) and 0.5 cent per gallon (col. 2).

Conference agreement

The conferees agreed to delete the provision. Both bills contained provisions relating to the tariff classification and treatment of naphtha products. In addition, the House bill would have created a new tariff item for "motor fuel blending stock."

Due to the unusual complexity of the products involved, the conferees determined that neither provision would accomplish the purposes intended by the respective Houses. The conferees therefore concluded that the Committee on Finance and the Committee on Ways and Means would request the International Trade Commission to conduct a study of the tariff classification and treatment of the entire range of products potentially affected by a reclassification of any naphtha, benzenoid chemical, or motor fuel blending stock. The Congress will better be able to address the proper method of classification after such a study is completed. Further, the study may shed particular light on the difficulties which gave rise to the motor fuel blending provision in the House bill. A significant amount of trade had developed recently with regard to these products, which has now been cast into doubt by a reclassification

decision by the Customs Service. That decision is now being reviewed, and the decision of the conferees to deter consideration of this matter should not be interpreted to reflect on this proceeding in any way.

Section : Photograph albums

House bill

No provision.

Senate bill

Provides for temporary duty increase for photograph albums to 35% ad valorem, until December 31, 1985.

Conference agreement

The conferees agreed to delete the provision.

Section : Plywood

House bill

Amends the Tariff Schedules of the United States to ensure that imports of cellular panels and tongued, grooved, lapped, or otherwise edge-worked plywood and wood-veneer panels are classified under the tariff provisions for those three products, rather than as building boards. This will result in an increase in the applicable column 1 rates of duty of about 10% ad valorem.

Senate bill

No provision.

Conference agreement

The conferees agreed to delete the provision.

Section : Certain parts for spindle motors

House bill

No provision.

Senate bill

Provides for temporary suspension of column 1 duty on parts designed for use exclusively in permanent magnet, brushless, electronically commutated, direct current, computer memory disk drive spindle motors of less than one-tenth horsepower until December 31, 1985.

Conference agreement

The conferees agreed to delete the provision.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Section 202(1)(B)(3): Drawback

House bill

Amends section 313(j) of the Tariff Act of 1930 to provide drawback if the same person requesting drawback, subsequent to impor-

tant and within three years of importation of the merchandise, exports from the United States or destroys under Customs supervision fungible merchandise (whether imported or domestic) which is commercially identical to the merchandise imported.

Senate bill

Substantially the same as the House bill. The Senate bill specifically references the aggregation of imported and domestic merchandise. The House bill specifically states that the substitute merchandise must be in the same condition as the imported merchandise.

Conference agreement

The conferees agreed to the House provision.

Section 202 (1)(B)(4): Drawback

House bill

Amends section 313(j) of the Tariff Act of 1930 to provide drawback for packaging materials used to perform incidental operations regarding packaging or repacking of imported merchandise.

Senate bill

Provides drawback for all packaging materials imported for packaging or repackaging imported merchandise.

Conference agreement

The conferees agreed to the Senate provision.

Section 202(2)(3): Drawback

House bill

No provision.

Senate bill

Amends section 313 of the Tariff Act of 1930 to provide that any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treated as the use of such imported merchandise for drawback purposes under subsections (a) and (b) if no certificate of delivery is issued with respect to such imported merchandise.

Conference agreement

The conferees agreed to the Senate provision.

Section 204: Virgin Islands excursion vessels

House bill

Amends section 441(3) of the Tariff Act of 1930 to exempt from entry requirements of the customs laws certain vessels carrying passengers from the U.S. Virgin Islands to the British Virgin Islands and returning.

Senate bill

Identical in substance; differences in drafting style.

Conference agreement

The conferees agreed to the Senate provision.

Section 206: Increase in amount for informal entry of goods

House bill

Amends section 498 of the Tariff Act of 1930 to increase the allowance for informal entry from $250 to $1,250, excluding goods classified in schedule 3 of the TSUS, certain parts of schedule 7, and parts 2 and 3 of the Appendix.

Senate bill

Identical to House provision, except the Senate increased amount is $1,000.

Conference agreement

The conferees agreed to the House provision. Although the conferees adopted the $1,250 limit with respect to informal entries, we understand that the Customs Service intends, by regulation, to set the limit at $1,000. This provision gives Customs additional flexibility to modify the limit as circumstances change in the future.

Section 207: Certain country of origin marking requirements

House bill

No provision.

Senate bill

Amends section 304 of the Tariff Act of 1930 to require permanent marking of imported pipe, pipe fittings, compressed gas cylinders, and manhole rings or frames, covers, and assemblies thereof, to show the country of origin.

Conference agreement

The conferees agreed to the Senate provision.

Section 208: Equipments and repairs of certain vessels exempt from duties

House bill

Amends section 466(e) of the Tariff Act of 1930 to exempt any U.S. flag vessel that is away from a U.S. port for at least two years from the 50% ad valorem duty on repairs and equipment purchases, provided the repairs or equipment purchases were not made within 6 months of departure from a U.S. port and the vessel did not depart from a U.S. port for the purpose of obtaining overseas repairs.

Senate bill

Identical in substance: differences in drafting style.

Conference agreement

The conferees agreed to the Senate provision.

Section 209: Articles returned from space

House bill

No provision.

Senate bill

Provides that return of certain articles from space shall not be considered an importation and customs entry of such articles shall not be required.

Conference agreement

The conferees agreed to the Senate provision with technical corrections.

Section 211: Operation of certain duty-free sales enterprises

House bill

Permits State and local government authorities having jurisdiction over airports or other exit points to require that operators of duty-free sales enterprises in such locations obtain concessions or approval before beginning business.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

Section 212: Customs brokers

House bill

Makes comprehensive changes to the Tariff Act of 1930 with respect to the licensing of customs brokers. The legislation defines the term "customs business" and restricts the scope of Customs' review of customs brokers to such customs business. It also specifies that only licensed brokers may conduct customs business for third parties; sets forth licensing and permit procedures; establishes a duty for customs brokers to exercise responsibility and control over their customs business; and provides disciplinary proceedings, including monetary penalties and revocation or suspension of licenses or permits.

Senate bill

Substantially identical to House provision, except that House bill contains an exception to the requirement that each broker have at least one licensed customs broker in each customs district in which he operates, and the House bill contains a 180 day grace period with respect to this requirement while the Senate period is 120 days.

Conference agreement

The conferees agreed to the House provision.

Section 231: Foreign trade zone provisions

House bill

Amends the Foreign Trade Zones Act of 1934 to exempt bicycle component parts, not to be exported, from the exemption from the customs laws available to merchandise in foreign trade zones.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

Section 232: Denial of deduction for certain foreign advertising expenses

House bill

No provision.

Senate bill

Provides for a denial of a business expense tax deduction for expenses of an advertisement carried by a foreign broadcasting undertaking directed to the U.S. market if the country denies a similar deduction for the cost of advertising in the United States.

Conference agreement

The conferees agreed to the Senate provision.

Section 233: Certain relics and curios

House bill

No provision.

Senate bill

Amends section 925 of title 18, United States Code, to authorize the importation by a licensed importer, of all rifles and shotguns listed as curios or relics pursuant to section 921(a)(13) and all handguns listed as curios or relics, provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.

Conference agreement

The conferees agreed to the Senate provision.

Section 234: Modification of duties on certain articles used in civil aviation

House bill

Provides the President with the authority to proclaim modifications to a number of enumerated items in the Tariff Schedules of the United States in order to provide duty-free coverage compara-

ble to the expanded coverage provided by all other signatories to the GATT Agreement on Trade in Civil Aircraft, as recently modified.

Senate bill

Identical, except that the House bill references the GATT Aircraft Committee decision of 3/22/84.

Conference agreement

The conferees agreed to the House provision.

Section 235: Products of Caribbean Basin countries entered in Puerto Rico

House bill

No provision.

Senate bill

This provision would allow products of a beneficiary country under the Caribbean Basin Economic Recovery Act (CBERA) to enter Puerto Rico under bond for manufacture and later to be withdrawn for consumption free of duty if the products otherwise are entitled to enter duty-free under the CBERA, notwithstanding the fact that the products are not being imported directly from a beneficiary country.

Conference agreement

The conferees agreed to the Senate provision.

Section 236: User fee for customs services at certain small airports

House bill

No provision.

Senate bill

Provides for customs services at certain small airports and authority to the Secretary of the Treasury to charge a user fee for such services.

Conference agreement

The conferees agreed to the Senate provision.

Section 237: Notification of certain actions by the United States Customs Service

House bill

No provision.

Senate bill

Provides for notification of the Congress 180 days before any significant reorganization of the U.S. Customs Service.

Conference agreement

The conferees agreed to a restricted version of the Senate provision. The notification period was cut back to 90 days and the provision was limited to major field reorganizations or consolidations significantly affecting district, regional or border offices. Any more restrictive language in an appropriation bill would be superseded.

Section 238: Columbia-Snake customs district

House bill

Requires the Commissioner of Customs to establish a customs district in the Pacific Northwest to be called the "Columbia-Snake Customs District".

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

Section 239: Reliquidation of certain mass spectrometer systems

House bill

No provision.

Senate bill

Provides for the Secretary of the Treasury to reliquidate the entry of two mass spectrometer systems imported into the United States for the use of Montana State University, Bozeman, Montana.

Conference agreement

The conferees agreed to the Senate provision.

Section 240: Max Planck Institute for Radioastronomy

House bill

Provides the Secretary of the Treasury with authorization to admit free of duty any instrument or apparatus provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project, being undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute, for the construction, installation, and operation of a sub-mm telescope in Arizona.

Senate bill

Substantially the same. However, the Senate bill excludes instruments or apparatus if instruments or apparatus of equivalent scientific value are being manufactured in the United States. The Senate bill also specifies administrative requirements which are prerequisites to obtaining duty-free entry for the instruments and apparatus in question.

Conference agreement

The conferees agreed to the Senate provision.

Section 241: Duty-free entry for research equipment for North Dakota State University, Fargo, North Dakota

House bill

No provision.

Senate bill

Provides duty-free entry for research equipment imported for use by the Cereal Chemistry and Technology Department of North Dakota State University, Fargo, North Dakota, entered on September 15, 1983.

Conference agreement

The conferees agreed to the Senate provision.

Section 244: Duty-free entry of organs imported for the use of Trinity Cathedral of Cleveland, Ohio

House bill

Provides for the retroactive duty-free entry of pipe organs manufactured in the Netherlands, and imported for the use of Trinity Cathedral of Cleveland, Ohio, during 1973–1978.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

Section 245: Sense of Congress regarding possible EEC action on corn gluten

House bill

Expresses the sense of the Congress that the President should continue to oppose firmly the imposition by the European Community (EC) of any restrictions of EC imports of nongrain feed ingredients, including corn gluten, and should support the current duty-free binding on such products. The section would also express the sense of Congress that the President should continue to oppose rigorously any EC proposals which would violate the intent of the existing duty-free binding in the GATT on soybeans and soybeans products, and reaffirm the U.S. conviction that imposition of a consumption tax on vegetable fats and oils by the EC would represent a restraint of trade.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

Section 246: Study on honey imports

House bill

No provision.

Senate bill

Expresses the sense of Congress that the Secretary of Agriculture should request the President to call for a United States International Trade Commission investigation into honey imports under section 22 of the Agricultural Adjustment Act.

Conference agreement

The conferees agreed to modify the provision to express the sense of the Senate only.

Section : Elimination of sureties on customs bonds

House bill

Provides that both the House Committee on Ways and Means and the Senate Finance Committee be informed 90 calendar days of continuous session of Congress before the Customs Service publishes a final rule revising any existing requirement for sureties on customs bonds (by way of submission of the rule and a report to the Committees).

Senate bill

No provision. (On the understanding that any more restrictive language in the appropriations bill would be repealed.)

Conference agreement

The conferees deleted the provision.

Subject: Controlled Substances Provisions (Section 211 of House Bill)

Present law

Presently, there are three principal forfeiture statutes used against illegal drug activity. They are "in rem" proceedings under civil forfeiture as provided in 21 U.S.C. 881, and in "personam" proceedings under criminal forfeiture in the Continuing Criminal Enterprise Statute (21 U.S.C. 848) and the Racketeer Influenced Corrupt Organization Statute (18 U.S.C. 1963).

House bill

The House bill would amend title 21 of the United States Code in order to substantially increase the maximum fines for drug offenses, provide the sanction of criminal forfeiture for all felony drug offenses and facilitate procedures for both civil and criminal forfeitures.

Senate bill

No provision.

Conferernce agreement

House recedes.

Subject: Customs Seizures and Forfeitures

(Section 212 of House Bill)

[Section 212 of the Bill Contains a Number of Amendments to the Tariff Act of 1930 Relating to Customs Seizure and Forfeiture. These Provisions were Passed Earlier by the House as Title II of H.R. 4901, the Comprehensive Drug Penalty Act]

1. "Aircraft" Additions

Present law

Although not specifically mentioned, aircraft are subject to forfeiture provisions of the Tariff Act pursuant to 49 U.S.C. 1509 and Customs regulations.

House bill

Amends sections 602, 605, 606, and 607 of the Tariff Act to expressly include "aircraft" in the coverage of these sections.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

2. Availability of Administrative Forfeitures

Present law

Section 607 provides for administrative rather than judicial forfeiture proceedings if the value of the vessel, vehicle, merchandise or baggage does not exceed $10,000, or if merchandise is prohibited. Notice of the seizure and intent to forfeit must be published for 3 successive weeks.

House bill

Raises the value of property which can be administratively forfeited to $100,000. However, for prohibited merchandise and conveyance, including aircraft, used to import, export or otherwise transport controlled substances, there would be no limit. Notice requirement is expanded to require written notice and description of procedures be sent to interested parties.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

3. Bond Requirement for Judicial Forfeiture

Present law

Section 608 allows any person claiming an interest in a seized vessel, vehicle, merchandise or baggage to judicially contest any forfeiture by filing a claim and giving a bond in the amount of $250.

House bill

Raises the amount of the bond which must be posted to judicially contest a forfeiture to $2500 or 10 percent of the value of the claimed property, whichever is lower, but not less than $250.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

4. Deposit of Proceeds in Customs Forfeiture Fund

Present law

Section 609 provides that if no claim is filed or bond given within twenty days, the seized property may be sold at public auction and the proceeds (less expenses) deposited in the U.S. Treasury.

House bill

During the period beginning on the date of enactment and ending September 30, 1987, all proceeds of sale (after deducting expenses) be deposited in the Customs Forfeiture fund.

Senate bill

No Provision.

Conference agreement

The conferees agreed to the House provision.

5. Judicial Forfeiture

Present law

Section 610 specifies procedure for Customs to follow for judicial forfeiture if the value of the seized vessel, vehicle, merchandise or baggage is greater than $10,000.

House bill

Makes conforming changes to provide for judicial forfeiture procedures "IF any vessel, vehicle, *aircraft,* merchandise, or baggage is not subject to section 607 of this Act" (i.e., the value of the article is greater than $100,000 and was not a converyance used to import, export, transport or store any controlled substance).

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

6. Explicit Reference to Aircraft

Present law

Although not specifically mentioned, aircraft are subject to forfeiture provisions of the Tariff Act, pursuant to 49 U.S.C. 1509 and Customs regulations.

House bill

Amends section 611 of the Tariff Act to expressly include "aircraft" in the coverage of the section.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

7. Summary Sale

Present law

Section 612 authorizes Customs to sell at auction any seized vessel, vehicle, merchandise or baggage if it is "liable to perish or to waste or to be greatly reduced in value by keeping or if the expense in keeping it will be disproportionate to the value thereof." If the value of the article exceeds $10,000, Customs must petition the Court to obtain permission to sell at auction.

House bill

Makes explicit reference to aircraft and makes conforming changes so that judicial approval of a sale at auction of the seized article is required "if the article is not subject to section 607 of this Act". Also adds a new subsection providing: "(b) if the expense of keeping the vessel, vehicle, aircraft, merchandise or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order, destruction or other appropriate disposition of such property under regulations prescribed by the Secretary of the Treasury.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

8. Disposition of Proceeds of Forfeited Property

Present law

Section 613(a) allows for persons claiming an interest in forfeited property which has been sold to apply for a remission of the forfeiture and restoration of proceeds of such sale. It also provides for the proceeds of sale after payment of designated expenses of forfeiture and sale and satisfaction of liens to be deposited with the U.S. Treasury as a Customs or navigation fine.

House bill

Makes explicit reference to "aircraft" and other conforming changes. Also provides that the proceeds of sale would be deposited in the general fund of the U.S. Treasury.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

9. Customs Forfeiture Fund

Present law

There is currently no provision for a Customs Forfeiture Fund. The proceeds of sale of forfeited property are disposed of in accordance with section 613 described above. Under that section the costs in handling each seizure are deducted from the proceeds of that seizure, if any. The resulting "net proceeds" are then transferred to the general fund in the U.S. Treasury. But if the proceeds do not exceed the expenses, the agency must cover the expenses out of its regular budget.

House bill

Adds a new section 613A establishing a Customs Forfeiture Fund in the U.S. Treasury, to be available to the U.S. Customs Service, subject to appropriation, during the period from date of enactment until September 30, 1987, with respect to Customs' seizures and forfeitures under any law enforced or administered by it for the payment of—

(1) certain expenses of forfeiture and sale;

(2) payment of awards of compensation to informers under section 619.

(a) liens for freight, charges and contributions in general average, notice of which has been filed with the appropriate Customs officer according to the law; and

(b) other liens against forfeited property;

(4) payment of amounts authorized by law with respect to remission and mitigation;

(5) payment for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the U.S. Customs Service;

(6) claims of parties in interest to property disposed of under section 612(b) of this Act, in the amounts applicable to such claims at the time of seizure.

The fund would also be available for the purchases of evidence of violations of specified criminal Acts.

All proceeds from forfeitures would be deposited in the fund (after reimbursement of expenses under section 524 of this Act) during the period from date of enactment to September 30, 1987. Unneeded funds are to be invested and reports to the Congress of receipts and expenditures are required within four months of the close of the fiscal year. Appropriations from the fund are limited to $10 million for each fiscal year. At the end of each fiscal year any

amount in the fund in excess of $10 million will be deposited in the general fund and at the end of fiscal year 1987, the fund will be terminated and all excess funds deposited in the general fund of the U.S. Treasury.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

10. Explicit Reference to Aircraft

Present law

Although not specifically mentioned, aircraft are subject to forfeiture provisions of the Tariff Act, pursuant to 49 U.S.C 1509 and Customs regulations.

House bill

Amends sections 614 and 615 to expressly include "aircraft" in the coverage of those sections.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

11. Transfer of Forfeited Property

Present law

Under current law, no authority exists for the Federal Government to discontinue Federal forfeiture proceedings where state or local forfeiture proceedings are being considered.

House bill

A new section 616 entitled "Transfer of Forfeited Property" provides that the Secretary of the Treasury may discontinue forfeiture proceedings under the Act in favor of forfeiture under state law after the proper filing of complaints by the Attorney General, and the United States shall not be liable for property forfeited under the Act to any State or local law enforcement agency which participated directly in the seizure or forfeiture.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

12. Award of Compensation to Informers

Present law

Section 619 provides for an award of compensation to informers of 25 percent of the net amount recovered but not to exceed $50,000.

House bill

Raises the maximum level of compensation which can be paid to informers to $250,000, but it is still limited to 25 percent of the net proceeds and makes explicit reference to "aircraft."

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

13. Explicit Reference to Aircraft

Present law

Although not specifically mentioned, aircraft are subject to forfeiture provision of Tariff Act, pursuant to 49 U.S.C. 1509 and Customs regulations.

House bill

Amends section 618 to expressly include "aircraft" in the coverage of the sections.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

14. Enforcement Authority of Customs Officers

Present law

Present Customs authority is limited to arrests with a warrant for any Federal offense and warrantless arrests for narcotics, marijuana (26 USC 7606), for navigation, seizure and revenue offenses (19 USC 1581) and a variety of conservation, wildlife and pollution laws. They do have the authority to carry a firearm and to execute and serve any warrant, order, subpoena, etc., issued under the authority of the United States (26 USC 7607).

House bill

Creates a new section 589 which increases the authority of Customs officers to make arrests without a warrant for those offenses against the United States committed in his presence and for those felonies which the officer has reasonable grounds to believe are or have been committed and to perform other law enforcement duties designated by the Secretary of the Treasury.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

SUBJECT: AMENDMENTS RELATING TO SECTIONS 201-203 OF THE TRADE ACT OF 1974 (IMPORT RELIEF)

(Sections 252, 258 and 309 of the Senate Bill)

1. Amendments to section 201 (sec. 252 of Senate bill)

1. a. Serious injury criteria

Present law

In judging the existence of serious injury, the International Trade Commission (ITC) considers relevant economic factors, including (but not limited to) idling of productive facilities, inability of firms to operate profitably, and unemployment in the industry.

House bill

No provision

Senate bill

Would add to the economic factors to be considered "any significant increase in the volume or share of total imports attributable to domestic producers in the industry."

Conference agreement

Senate recedes.

1. b. Threat of serious criteria

Present law

In judging the existence of a threat of serious injury, the ITC considers relevant economic factors, including (but not limited to) a decline in sales, higher and growing inventory, and a downward trend in production, profits, wages or employment in the industry.

House bill

No provision.

Senate bill

Would add to the economic factors to be considerd by clarifying that a decline in sales is to be measured in terms of articles that are like or directly competitive with the imported article, that a higher or growing inventory may exist whether maintained by domestic producers, importers or retailers, and by adding new criteria: an upward trend in imports or sales for importation and an upward trend in the volume or share of total imports attributable to domestic producers.

Conference agreement

House recedes with an amendment deleting sections 2(b)(i), (iii), (iv), and (v), and adding the word "wholesale" after "importers" in section 2(b)(ii).

1. c. Substantial cause criteria

Present law

In judging substantial cause, the ITC considers relevant economic factors, including (but not limited to) an increase in imports and a

decline in the proportion of the domestic market supplied by domestic producers.

House bill

No provision.

Senate bill

Would clarify that increasing imports are a factor in judging substantial cause regardless of whether imports are attributable to domestic producers in the industry.

Conference agreement

Senate recedes.

1. d. Role of imports in defining industry

Present law

In determining the domestic industry producing a like article, the ITC may exclude imports by a domestic producer.

House bill

No provision.

Senate bill

Would require that the Commission exclude imports by a domestic producer in determining the domestic industry.

Conference agreement

Senate recedes.

1. f. Definition of relevant economic factors

Present law

In making its injury determination, the ITC is required to take into account all economic factors which it considers relevant.

House bill

No provision.

Senate bill

Would preclude the ITC from considering any of the following factors in judging injury although they could be considered by the Commission in recommending relief and by the President in acting on that recommendation:

1. Effectiveness of relief, efforts to adjust to import, and other considerations relative to the position of the industry in the nation's economy.
2. Effect of import relief on consumers and on domestic competition.
3. Effect of import relief on U.S. international economic interests.
4. Effect on U.S. industries of compensation obligations incurred by grantng relief.

Conference agreement

Senate recedes.

1. g. Role of profits in injury finding

Present law

The Commission may find that imports are a substantial cause of serious injury or threat thereof based, *inter alia,* on the profitability (or absence thereof) of domestic firms.

House bill

No provision.

Senate bill

Would specify that the fact that the domestic industry is profitable does not preclude an injury finding.

Conference agreement

House recedes with amendment specifying that the presence or absence of any factor listed in section (201)(b)(2) is not dispositive of injury.

1. h. Probative significance of "captive imports"

Present law

The ITC may treat imports by domestic producers as evidence of the adjustment to competition which is encouraged by the statute.

House bill

No provision.

Senate bill

Would require the ITC to treat imports by domestic producers as one factor in judging injury rather than as evidence of adjustment.

Conference agreement

Senate recedes.

1. i. Role of plant closings

Present law

The Commission is not required to consider plant closings in its analysis.

House bill

No provision.

Senate bill

Would require the Commission to take account of the effect of plant closings on production, employment, capacity, capacity utilization, or domestic profits.

Conference agreement

Senate recedes.

The Senate approved amendments to section 201 of the Trade Act in response to the decision of the International Trade Commission in the non-rubber footwear case. These amendments reflected Senate dissatisfaction with the ITC's interpretation of section 201 in the nonrubber footwear case. The Senate amendments were in-

tended to clarify congressional intent by elaborating on the language of section 201.

This amendment is intended to make clear that the presence or absence of any one factor shall not necessarily provide decisive guidance to the Commission in its determination of serious injury. It is possible, for example, that the surviving firms in an industry will be profitable, even though large numbers of firms within the industry have closed and large numbers of workers have lost their jobs. Accordingly, the Commission should not treat the industry's profit data as dispositive, but should go on to give careful consideration to the plant closings and employment trends in assessing the condition of the industry.

The Managers also believe that the Commission should, wherever possible, exclude profits derived from captive imports from the operations of the domestic industry. Profits from captive imports do not necessarily reflect the condition of production operations in the United States. Indeed, the decision of domestic producers to turn to foreign outsourcing may result in a loss of jobs and consequently have an adverse impact on employment or underemployment under subsections (b)(2)(A) and (b)(2)(B).

2. Analysis of Economic Impact of Import Restrictions Recommended under Section 201(d) (sec. 258 of Senate bill)

Present law

No provision.

House bill

No provision.

Senate bill

Would require the ITC report submitted to the President pursuant to section 201(d) to be submitted to the Council of Economic Advisers (CEA); would require the CEA to submit to the President and Congress within 30 days a report analyzing effect of ITC recommendations on prices, on revenues, on employment in the industry seeking protection, on consumers and on other industries, on the the U.S. balance of payments and on U.S. competitiveness.

Conference agreement

Senate recedes.

3. Disapproval of Presidential Determinations under Section 203 of the Trade Act of 1974 (sec. 309 of Senate bill)

Present law

If the President fails to follow the recommendation of the ITC on import relief, the ITC's recommendation will take effect 90 days after the President sends his determination to Congress if each house approves a concurrent resolution, pursuant to expedited procedures under section 152, disapproving the President's determination.

House bill

No provision.

Senate bill

Would conform current procedures to the Supreme Court's *Chadha* ruling by substituting joint for concurrent resolutions. As a result, such joint resolutions disapproving the President's determinations could be vetoed by the President.

Conference agreement

House recedes.

Subject: Negotiations on Restraint of Copper Production

(Sec. 254 of Senate Bill)

Present law

No provision.

House bill

No provision.

Senate bill

Requires that the President initiate negotiations with governments of copper-producing countries to conclude voluntary restraint agreements which reduce foreign copper production for 3–5 years to allow copper prices to rise to levels with which U.S. producers can compete.

Conference agreement

House recedes with an amendment to change the provision to a Sense of the Congress that the President should negotiate with the principal foreign copper producing countries and submit a report to the Congress (1) explaining the results of his negotiations or (2) why he felt it was inappropriate or unnecessary to undertake such negotiations.

TITLE III: INTERNATIONAL TRADE AND INVESTMENT ACT

Senate Bill: (Sec. 301–308 and Sec. 255)

House Bill: Title XI (Services Industries Commerce Development)

1. Negotiating Authority

Present law

No specific authority.

House bill

Provides specific negotiating authority to reduce or eliminate barriers to or distortions of international trade in services, and to develop dispute settlement procedures to reduce or eliminate such barriers.

Senate bill

Would provide specific negotiating authority:

(a) to reduce or eliminate barriers to or distortions of international trade in services and to develop internationally

agreed rules, including dispute settlement procedures, to reduce or eliminate such barriers;

(b)(1) to reduce or eliminate artificial or trade distorting barriers to foreign direct investment and the development of rules, including dispute settlement procedures to ensure the free flow of foreign direct investment, and the reduction or elimination of the trade-distortive effects of certain investment related trade measures;

(2) to seek the elimination or reduction of foreign export performance requirements for which purpose the USTR would be authorized to impose import restriction (including the exclusion of products subject to such requirements.)

(c)(1) to maintain and preserve openness of trade and investment in high technology products and related services, to eliminate or reduce distorting effects of foreign government actions which distort high technology trade; and

(2) to obtain reduction, or elimination of all tariffs and barriers on U.S. exports of high technology products, to obtain commitments to foster national treatment and to provide minimum safeguards for the acquisition and enforcement of intellectual property rights.

In pursuing objectives (a) and (b)(1), U.S. domestic objectives (e.g., health and safety, environment, etc.) shall be taken into account.

Conference agreement

House recedes with amendments to Senate negotiating objectives on services and definition of barriers regarding restrictions on establishment; technical amendment to Senate domestic objectives on services and investment; amendment pertaining to prospective application of export performance requirements.

2. Trade Negotiating Advice from advisory Committees

Present law

Provides for advice from the private sector.

House bill

Would authorize establishment of intergovernmental advisory committees.

Senate bill

Similar provision.

Conference agreement

Senate recedes.

3. Trade Estimates and Reports on Barriers

Present law

Annual report on trade agreements program and import relief and adjustment assistance for workers, firms, and communities.

House bill

No provision.

Senate bill

Would require annual national trade estimates on significant barriers to the exportation of U.S. goods and services and restriction on U.S. foreign direct investment; USTR required to identify, through TPC, significant barriers of distortions, estimate their impact, and report actions taken to eliminate barriers; consultations with congressional committees required on trade policy priorities to enhance market opportunities; report required within 1 year of enactment and annually thereafter.

Conference agreement

House recedes.

4. Retaliatory Authority

Present law

Provides that action may be taken against the products or services of the foreign country or instrumentality involved; President may modify trade agreement concessions and impose duties or other import restrictions.

House bill

President's authority clarified to impose restrictions on services. May restrict terms and conditions, or deny issuance of any service sector access authorization (e.g., license permit, order that allows a foreign supplier of services access) notwithstanding any other provision of law.

Applies to prospective authorizations only.

Senate bill

Would clarify President's authority by substituting "goods" for "product" and "sector" for "service"; President's authority may be exercised without regard to whether or not such goods or sector were involved in the act, policy or practice identified; President's authority clarified to impose fees or restrictions on services notwithstanding authority of other provisions of law; President authorized to propose "fast track" legislation as part of his retaliatory powers.

Conference agreement

Senate recedes to House provision on use of service sector access authorization with modifications with respect to consultations and clarifying language. Senate recedes to House on definition of service sector access authorization.

House recedes to Senate on clarification of authority to impose fees on foreign services with technical amendment.

Senate recedes to House on "fast-track".

House recedes to Senate on cross-sectoral authority, substitution of 'goods' for 'products' and 'sector' for 'service'.

The change in term from "services" to "sector" is intended solely to reflect the President's ability to exercise his authority under section 301 in response to unfair foreign practices on investment, as well as goods and services.

The Conferees recognize that at the Federal level most services are subject to the regulation of independent agencies. For example, telecommunications is regulated by the Federal Communications Commission and trucking is regulated by the Interstate Commerce Commission.

As a result, such services enter the U.S. market, not at ports of entry as do goods, but rather upon the receipt of a license, permit or other authorization issued by the appropriate regulatory authority.

For this reason, the Conferees believe the authority granted in section 304(c) of the Conference Agreement is important for the President to be able to impose effective restrictions on foreign service firms in the domestic U.S. market should he determine such restrictions are needed.

The authority under this subsection is intended to apply only to retaliatory action relating to services. Existing retaliatory authority with respect to imported goods should be used when action against foreign goods is contemplated. The authority under this subsection should only be used with respect to goods potentially subject to services access authorization to the extent that actions involving services must be taken with respect to goods associated directly with those services.

5. Definition of Commerce

Present law

Services associated with international trade.

House bill

Services associated with international trade.

Senate bill

Would include foreign direct investment by U.S. persons with implications for trade in goods and services.

Conference agreement

House recedes.

6. Definition of unreasonable, unjustifiable and discriminatory

Present law

Undefined.

House bill

No provision.

Senate bill

Would define:

(a) "unreasonable" as any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable, including, but not limited to, any act, policy, or practice which denies fair and equitable (A) market opportunities; (B) opportunities for the establishment of an enterprise; or (C) provision of adequate protection of intellectual property rights;

(b) "unjustifiable" as any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States, including, but not limited to, any act, policy, or practice described above which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights;

(c) "discriminatory" where appropriate as any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.

Conference agreement

House recedes.

7. Initiation of Section 301 Petitions

Present law

President may take action as a result of petition-initiated investigation, or on his own motion.

House bill

No provision.

Senate bill

Would authorize USTR to self-initiate section 301 investigations as a foundation for advice to President.

Conference agreement

House recedes.

8. Initiation of International Consultations

Present law

Consultations are initiated on same date as section 301 investigation is instituted.

House bill

No provision.

Senate bill

Would authorize USTR up to 90-day delay in initiation of consultations.

Conference agreement

House recedes.

9. Confidentiality, Information, and Prohibited Acts

Present law

No specific exception for information submitted in connection with Trade Act investgations.

House bill

Requires Secretary to seek arrangement with private sector regarding access to information for service program; authorizes Secretary to require persons to submit critical information; provides for confidential treatment of critical information except disclosure

authorized in certain circumstances; persons failing to provide critical information are subject to civil penalty proceeding.

Senate bill

Would exempt business confidential information requested or received by USTR in aid of Trade Act investigations from FOIA.

Conference agreement

House recedes.

10. Definition of International Trade

Present law

Trade in goods and services only, no reference to foreign direct investment.

House bill

Trade in goods and services only; no reference to foreign direct investment.

Senate bill

Would specifically include foreign direct investment by U.S. persons, especially if such investment has implications for goods and services.

Conference agreement

House recedes.

11. High Technology Exports

Present law

No specific provision.

House bill

No provision.

Senate bill

Would authorize President to enter bilateral or multilateral agreements as may be necessary to achieve objectives relevant to high technology products; President given 5-year authority to eliminate duties on certain high technology items.

Conference agreement

House recedes.

12. Services Industries Development Program

Present law

No provision.

House bill

Requires Secretary of Commerce to establish Services Industries Developing Program involving development, and analysis of data on trade, competitive factors affecting services industries, etc.; requires biennial report to Congress and President containing analysis of information collected under program.

Senate bill

Similar provisions relating to establishment of a services industries development program; no reporting requirement.

Conference agreement

Senate recedes on program and biennial report with an amendment to include provisions of the Senate bill to broaden the scope of data collection and analysis.

13. Consultation/Coordination

Present law

No provision.

House bill

Requires regular consultations with services industries; provides USTR coordination of services trade policies with assistance from other agencies; requires consultations with States on trade policy issues and establishment of intergovernmental policy advisory committees.

Senate bill

Similar provisions.

Conference agreement

Senate recedes.

14. Definition of Services and Secretary

Present law

Undefined.

House bill

Defines "services" to mean economic outputs associated with international trade that are not tangible goods, including, but not limited to, certain listed services; defines "Secretary" as Secretary of Commerce.

Senate bill

No provision.

Conference agreement

House recedes on definition of "Secretary". Senate recedes to House with modification on definition of "services", to be included in Services Industries Development program.

The Conferees do not intend that the definition of services which appears in section 306 of the Conference Agreement to be exhaustive. Instead, it should be referred to and used as guidance in determining what services means for purposes of section 301 of the Trade Act of 1974 as amended by the Conference Agreement.

15. Statement of Purposes

Present law

No provision.

House bill

Purposes are: (1) to encourage expansion of international trade and investment in services; (2) promote expansion of U.S. service industries in foreign commerce.

Senate bill

Purposes are: to foster economic growth, employment by expanding competitive U.S. exports through achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by U.S.; to improve President's ability to identify, analyze and eliminate barriers; to encourage expansion of services trade through trade agreements; and to enhance free flow of foreign direct investment.

Conference agreement

House recedes to Senate with modification of purpose related to trade in services.

16. Short Title

Present law

No provision.

House bill

"Services Industries Commerce Development Act of 1984".

Senate bill

"International Trade and Investment Act",

Conference agreement

House recedes.

17. Data on International Trade in Services (sec. 255 of Senate bill)

Present law

The International Investment Survey Act of 1976 requires periodic reports on international investment in the U.S. and by U.S. persons overseas.

House bill

No provision.

Senate bill

Redesignates the Act as the International Investment and Trade in Services Survey Act, adds trade in services to the periodic reporting requirements and extends reporting to transactions with unaffiliated (as well as affiliated) foreign persons.

Conference agreement

House recedes to Senate with amendments deleting definition of services and expanding access to reports.

TITLE IV: UNITED STATES-ISRAEL FREE TRADE AREA

1. Short title (sec. 401 of House bill)

Present law

No provisions.

House bill

"United States-Israel Free Trade Area Act"

Senate bill

No provision.

Conference agreement

House provision.

2. Scope of Authority to Enter Into Trade Agreements Modifying or Eliminating Tariff and Nontariff Trade Barriers. (sec. 402 of House bill; sec. 401 of Senate bill)

Present law

The President has no authority to proclaim tariff reductions, increases, or modifications. The President's basic tariff negotiating authority, set forth in section 101 of the Trade Act of 1974 expired in 1979; more limited "residual" authority, contained in section 124 of the Act expired in 1982.

The President is authorized by section102(b) of the Act to negotiate trade agreements harmonizing, reducing, or eliminating nontariff trade barriers. This authority expires January 3, 1988. The authority merely provides for expedited consideration by the Congress of any agreement negotiated pursuant to it, if the President follows the procedures the authority prescribes.

House bill

a. Authorizes the President to enter into a trade agreement with Israel providing for

(1) duty-free entry of Israeli products, and

(2) the harmonization, reduction, or elimination of nontariff trade barriers.

b. No provision.

Senate bill

a. Amends section 102(b) and 102(g) to authorize the President to negotiate trade agreements harmonizing, reducing, or eliminating tariff, as well as nontariff, trade barriers, provided that any such agreement that would eliminate or reduce tariffs may be entered into only with Israel or Canada. If any other country requests such negotiations, the President must notify the Finance and Ways and Means Committees at least 60 days before the 90 day notification and consultation period required by current law before the President enters into the agreement (as a condition of expedited Congressional consideration). If either committee disapproves of the negotiation of such agreement, before that 60-day period expires, then the President could not submit the agreement for expedited consideration by the Congress.

b. Tariff agreements with Israel must take into account products benefitting from a discriminatory preferential arrangement and

the preference has been the subject of a GATT dispute settlement proceeding initiated by the United States.

Conference agreement

Senate provisions, except that the 90-day prior notification and consultation requirement would not apply to Israel and trade agreements with Canada would be subject to the same 60-day prior disapproval provision as other countries.

3. Procedures for Implementing Agreements (sec. 402 of House bill; sec. 401 of Senate bill)

Present law

The procedures for congressional consideration of any agreement negotiated under section 102 include the "fastrack" procedures set forth in sections 102(c)–(f) and 151–154 of the Trade Act of 1974.

In general, these procedures provide for notification of Congress 90 days before the President enters into an agreement; submission of the agreement and implementing legislation for Congressional approval after the agreement is entered into; and approval or disapproval by both Houses within 60 days.

House bill

The President may proclaim any tariff changes resulting from such an agreement. However, the President must submit any nontariff barrier provision of the agreement for Congressional approval under the procedures of section 102 of the trade Act.

Senate bill

Same as current law for nontariff barrier agreements negotiated under the section 102 authority. Thus, both tariff and nontariff matters would be subject to Congressional approval.

Conference agreement

Senate provisions.

4. Limitation of Most-Favored-Nation Benefits (sec. 406 of House bill; sec. 401 of Senate bill)

Present law

Certain U.S. treaties may be interpreted to extend automatically to the other party, by virtue of most-favored-nation provisions, any tariff or other trade benefit accorded by the United States to any other country.

House bill

Provides that no trade benefit shall be extended to any country by reason of an agreement with Israel entered into under this authority.

Senate bill

Same as House bill, except includes any agreement with Canada.

Conference agreement

Senate provision amended to apply to any agreement entered into under the authority.

5. Rules-of-origin (sec. 403 of House bill; sec. 401 of Senate bill)

Present law

In general, an imported article is treated for customs purposes as originating where it was wholly grown, produced, or manufactured. If further work in another country "substantially transforms" the article, then it is considered a product of the other country.

The Caribbean Basin Initiative, although not applicable here, is an example of legislation containing more specific rules. An eligible product is one imported directly from a beneficiary country and containing at least 35 percent cumulative local value-added, 15 percent of which can be of U.S. origin. Value is the sum of the cost or value of materials plus the direct cost of processing in the beneficiary country or countries. Products merely packaged or combined in the country, or merely diluted by a liquid that does not materially alter the article's essential character, do not qualify.

House bill

a. Incorporates the same rules of origin for Israeli products that were specified in the Caribbean Basin Initiative legislation.

b. Treasury must consult with USTR before issuing regulations to carry out these origin rules.

Senate bill

a. Requires that any agreement with Israel meet requirements "similar" to that in the CBI.

b. No provision.

Conference agreement

a. Senate recedes.

b. Senate recedes.

6. Temporary Import Relief as Exception to Duty-free Treatment. (Sec. 404 of House bill; sec. 401 of Senate bill)

Present law

Sections 201–203 of the Trade Act of 1924 authorize the President to impose quotas, tariffs, or to negotiate export restraints in order to provide relief to an industry for which the International Trade Commission has determined that increasing imports are a substantial cause of serious injury or a threat thereof. Relief may be for up to 5 years, and may be extended after the initial period for up to 3 more years.

Section 232 of the Trade Expansion Act of 1962 authorizes the President to take such action as he deems necessary to adjust imports of articles that are being imported in such quantities or under such circumstances as to threaten to impair the national security.

House bill

a. Provides that the President may proclaim duties for Israeli products in accord with actions taken under section 203 of the Trade Act or section 232 of the Trade Expansion Act.

Senate bill

a. No provision.

House bill

b. Authorizes the President to suspend duty-free treatment for Israeli products that the ITC determines are the substantial cause of serious injury to the industry which seeks relief under section 201.

Senate bill

b. No provision.

House bill

c. Further provides that section 201 relief in effect when the Israel government becomes effective shall remain in effect until modified or terminated. Further, the President may reduce or terminate the application of the existing relief to the article.

Senate bill

c. No provision.

Conference agreement

c. Senate recedes.

7. Perishable Products (Sec. 405 of House bill; sec. 401(d) of Senate bill)

Present law

The CBI legislation provides that with regard to section 201 cases involving perishable commodities, the President, within 21 days of application to the Secretary of Agriculture and upon the Secretary's recommendation, may withdraw duty-free treatment of the commodity until a final negative determination by the ITC or a decision by the President regarding relief or until changed circumstances. Perishable products are (1) live plants; (2) fresh or chilled vegetables; (3) fresh mushrooms; (4) fresh fruit; (5) fresh cut flowers; and (6) concentrated citrus fruit juices.

House bill

Requires that any U.S.-Israel trade agreement incorporate the same emergency relief provision as contained in the Caribbean Basin Initiative legislation.

Senate bill

Requires that implementing legislation contain emergency relief provisions for perishable products similar to that in the CBI legislation. "Perishable products" are:

(1) vegetables;
(2) edible nuts and fruits;
(3) fresh cut flowers; and
(4) concentrated citrus fruit juice.

Conference agreement

Senate recedes with an amendment to include the products in its definition of perishable products.

8. Section 22 Fees (sec. 405(f) of House bill)

Present law

Section 22 of the Agricultural Adjustment Act authorizes the imposition of the import fees and quotas on products rendering ineffective (or tending to do so) a domestic price support program.

House bill

Duty reductions proclaimed as a result of the U.S.-Israel trade agreement shall not affect section 22 fees.

Senate bill

No provision.

Conference agreement

Senate recedes.

9. Relationship of Other Trade Laws (sec. 406 of House bill)

Present law

Import relief is authorized under section 232 of the Trade Expansion Act of 1962 for national security reasons; under the Tariff Act of 1930 as a remedy for unfair trade practices; and under the Trade Act of 1964 for adjustment purposes or to respond to certain unfair trade practices not otherwise covered in the 1930 Act.

House bill

Implementation of U.S.-Israel trade agreement may not affect the application of laws authorizing relief from import competition.

Senate bill

No provision.

Conference agreement

Senate recedes.

10. U.S.-Canada Commission (Sec. 402 of Senate bill)

Present law

No provision.

House bill

No provision.

Senate bill

Amends section 612(b) of Trade Act of 1974 to authorize President to seek establishment of joint commission to resolve trade and other economic issues between the United States and Canada.

Conference agreement

Senate recedes.

TITLE V: GENERALIZED SYSTEM OF PREFERENCES (AMENDMENTS TO TITLE V, TRADE ACT OF 1974)

1. Title and Purposes (sec. 501 of Senate and House bills)

Present law

No provision.

House bill

Entitled "Generalized System of Preferences Renewal Act of 1984" and outlines 10 specific purposes.

Senate bill

Same provision except no specific references to intellectual property rights or internationally recognized worker rights.

Conference agreement

House provision.

1. Basic Authority and Time Limits

2. a. Authority (sec. 502 of House bill; sec. 503 of Senate bill)

Present law

Sec. 501 authorizes President to extend duty-free treatment to eligible articles as described below. President "shall have due regard for":

1. effect of such action on furthering country's economic development;

2. extent to which comparable actions taken by other developed countries, and

3. anticipated impact on such action on competing U.S. products.

House bill

Adds, phrase, "through the expansion of their exports" to the end of paragraph (1) and a new criterion (4): "the extent of the beneficiary developing country's competiveness with respect to eligible articles."

Senate bill

Includes paragraph on country's competitiveness; does not include amendments to paragraph (1)

Conference agreement

House provision.

2. b. Time Limit (sec. 506 of House bill; sec. 502 of Senate bill)

Present law

No duty-free treatment shall remain in effect after January 3, 1985 and report on program's operation must be filed after 5 years under sec. 505.

House bill

Extends expiration date until 1/3/90 and requires the President to submit a report to Congress before that date on the operation of program and annual reports on the status of internationally recognized worker rights within each beneficiary developing country.

Senate bill

Extends program to 1/3/95 and does not require reports.

Conference agreement

Program extended for 8½ years.

House provisions on reports.

With respect to the reports on workers rights, the Conferees note that the President already submits an annual report to Congress under section 116(d) of the Foreign Assistance Act of 1961 prepared by the Department of State and Labor on human rights. It is the Conferees' intent that the information required under section 505(c) be included as a separate section in that annual report. Furthermore, the report should address specifically the extent that each of the rights included in the statutory definition of internationally recognized worker rights is respected within each beneficiary developing country.

3. Eligible Countries (sec. 503 of House bill; sec. 504 of Senate bill)

3a. Procedure

Present law

President designates BDCs under sec. 502(a) by executive order after notifying Congress; same for termination.

House bill

Adds definition of term "internationally recognized worker rights" to include—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health."

Senate bill

No provision.

Conference agreement

House provisions.

It is the intention of the Conferees that this definition of internationally recognized worker rights be interpreted to be commensurate with the development level of the particular country, but that each element of the definition be reviewed with respect to the determination required by section 503(c)(3) of this bill.

3b. Mandatory criteria

Present law

Certain named developed countries are ineligible under sec. 502(b) for benefit as are OPEC members and Communist countries, unless they are GATT and IMF members and not dominated by international communism, and countries providing preferential

treatment to another developed country unless such preferences have no significant adverse effects.

House bill

Hungary deleted from list of ineligible developed countries.

Senate bill

No provision.

Conference agreement

House provisions.

3c. Mandatory criteria, subject to national interest waiver

Present law

Unless the President determines that designation of eligibility would be in the national economic interest, despite failure to comply with the following conditions, a country also is ineligible under sec. 502(b) for GSP benefits if—

1. it has taken actions which have the effect of nationalizing, expropriating or otherwise seizing control of U.S. citizens' property without providing adequate compensation;
2. it fails to cooperate with the United States in interdicting unlawful narcotics traffic;
3. it fails to recognize or enforce arbitral awards in favor of U.S. citizens; or
4. it aids or abets international terrorism by granting sanctuary to international terrorists.

House bill

Makes explicit that provisions relating to nationalization, expropriation and seizure of property (sec. 502(b)(4) (A), (B) and (C)) include "patents, trademarks, or copyrights" and adds following new criteria:

"(8) if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country)."

Senate bill

Identical provision on intellectual property rights; does not include provision on worker rights.

Conference agreement

House provisions.

The Conferees recognized that although the new subparagraph (8) language will become immediately effective, it will be difficult to make the determinations it requires because the first report required by section 506 will not be completed until 1986. The Conferees expect the President to make his determinations under this section according to the best information available to him.

3.d. Factors to be taken into account

Present law

In determining whether to designate a country as a GSP beneficiary, the President must take into account the following factors under sec. 502(c) before designation:

1. the desire of the country to receive benefits;
2. the level of the country's economic development;
3. whether other developed countries are extending benefits to the country; and
4. the extent to which the country has provided assurances of equitable and reasonable access to its markets and basic commodity resources.

House bill

Adds the following three new factors:

"(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights;

"(6) the extent to which such country has taken action to reduce trade distorting investment practices and policies (including export performance requirements), and reduce or eliminate barriers to trade in services"; and

"(7) whether or not such country has taken or is taking such steps to afford workers in that country (including any designated zone in that country) internationally recognized worker rights".

Senate bill

Identical new criteria (5); identical criteria (6) on investment but does not include references to barriers to trade in services; does not include criteria (7) relating to worker rights; and amends criteria (4) by adding the phrase "and the extent to which such country has assured the U.S. that it will refrain from engaging in unreasonable export practices."

Conference agreement

Combines House and Senate provisions.

4. Eligible Articles

4a. Regulations on rules-of-origin (sec. 503 of House bill)

Present law

Secretary of Treasury has authority under section 503(b) to prescribe regulations to carry out GSP rules-of-origin.

House bill

Requires the Secretary of Treasury to consult with USTR before prescribing regulations governing GSP rule-of-origin requirements.

Senate bill

No provision.

Conference agreement

House provision.

4b. Ineligible articles (sec. 504 of House bill; sec. 505 of Senate bill)

Present law

The following import-sensitive articles may not be designated under sec. 503(c) for GSP eligibility:

1. Textile and apparel articles subject to textile agreements;
2. watches;
3. import-sensitive electronic, steel, and glass products;
4. certain footwear articles; and
5. any other article the President determines is import-sensitive in the context of GSP.

House bill

The exclusion for footwear is expanded to cover "footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on April 1, 1984".

Senate bill

Identical provision except the existing exclusion for certain footwear in subparagraph (E) is retained. Deletes watches from the list of ineligible articles.

Conference agreement

House provision.

5. Limitations on Preferential Treatment (sec. 505 of House bill; sec. 506 of Senate bill)

5a. Study and report

Present law

Sec. 504(a) authorizes President to withdraw, suspend, or limit duty-free treatment for any eligible article or beneficiary country and requires withdrawal or suspension of beneficiary designation if after designation, circumstances change so that country does not meet initial designation criteria.

No provision.

House bill

Requires President to—

Submit report to the Congress by 1/4/87 on the application of secs. 501 and 502(c) and the actions he has taken to withdraw, suspend, or limit benefits for failure to take actions described in sec. 502(c); and

Conduct a general review of eligible articles based on initial designation criteria under secs. 501 or 502(c), to be completed by 1/4/86, and renewed periodically thereafter.

Senate bill

Similar provision, except report is not due until 1/4/88, and requires particular emphasis on country's efforts to—

1. provide market access;
2. protect intellectual property rights; and
3. reduce trade-distorting investment practices and policies.

Similar provision, except first review must be completed not later than 1/4/87.

Conference agreement

Senate provisions on report and review dates; does not include Senate provisions on particular emphasis requirement.

5b. Competitive need limits

1. Basic limits.

Present law

Under sec. 504(c), a particular beneficiary country is eligible for GSP treatment on a particular article within 90 days after the close of a calendar year if its exports to the U.S. in that calendar year exceeded either—

A. a dollar amount set by a formula based on growth in U.S. GNP (the 1983 limit was about $57 million); or

B. 50 percent of the total value of U.S. imports of the article.

House bill

Retains basic competitive need limits.

Senate bill

Indentical provision.

Conference agreement

Identical provisions.

2. Graduation, cutback and waiver authority

Present law

Discretionary authority under sec. 504(a) to withdraw, suspend or limit benefits; no authority to waive competitive need limits, except in special circumstances applicable only to the Philippines.

House bill

Beginning on January 4, 1986, cutbacks and waivers authorized for 3 groups of countries as described below:

Countries with $9,000 GNP—Mandatory graduation for all articles over a maximum period of two years, then country no longer considered a BDC.

No waiver authority.

Countries with 10% share of GSP duty-free imports or $5,000 GNP.—Mandatory cutback in competitive need limits for all articles (from $57 million/50% to $25 million/25%).

President may waive cutbacks and restore the original competitive need limits on article-by-article basis after (1) receiving ITC advice on whether any industry is likely to be adversely affected; (2) determining a waiver is in the national economic interest based on secs. 501 and 502(c) criteria (including market access, intellectual property rights protection and internationally negotiated worker rights); and (3) publishing his determination.

All Other Countries.—Presidential discretion to reduce competitive need limits (from $57 million/50% to $25 million/25%) on article-by-article basis if country has "demonstrated a sufficient degree of competitiveness" in such article.

President may waive limits on article-by-article basis but total waivers above present competitive need levels cannot exceed 25 precent of total U.S. GSP duty-free imports.

Senate bill

Beginning on January 4, 1987, cutbacks and waivers are authorized as follows:

Presidential discretion to reduce competitive need limits (from $57 million/50% to $25 million/25%) on article-by-article basis if country "demonstrated a sufficient degree of competitiveness" in such article.

After two years (i.e., when the above product review is completed), competitive need limits may be waived if the President (1) receives ITC advice on whether any U.S. industry is likely to be adversely affected; (2) determines a waiver is in the national economic interest based on the basic designation criteria under sections 501 and 502(c) and; (3) publishes his determination.

In making his national interest determination, the President must give great weight to (1) assurances of equitable and reasonable market access to the beneficiary country, and (2) the extent the country provides adequate and effective intellectual property rights protection.

Conference agreement

House recedes on cutback authority, with an amendment requiring graduation of countries with $8,500 GNP (indexed annually to 50 percent of change in U.S. GNP), phased out over two-year period.

Senate recedes on waiver authority with an amendment limiting total waivers for all countries above present competitive need levels to maximum 30 percent of total GSP free imports, of which maximum of one-half may apply to countries with 10 percent share of total GSP free imports or $5,000 GNP, and requiring great weight to particular factors in national interest determination.

5 c. Exceptions to application of competitive need limits

1. Philippines exception

Present law

Competitive need limits do not apply if waived by President because he finds:

A. an historical preferential trading relationship with the country exists;

B. there is a trade agreement to which the country and the U.S. are parties; and

C. the country does not impose unreasonable or discriminatory barriers to U.S. commerce.

House bill

Waiver authority is retained for the Philippines, subject to the country criteria above.

Senate bill

Waiver authority is retained, but subject to reduction in competitive need limits on article basis above.

Conference agreement

Senate provision.

2. Exception for least developed developing countries (LDDC's)

Present law

No provision.

House bill

No provision.

Senate bill

Competitive need limits shall not apply to LDDC's as determined by the President and designated 60 days after notification to Congress.

Conference agreement

Senate provisions.

No domestic production exception.

Present law

The 50-percent-of-imports competitive need limit does not apply if a like or directly competitive article was not produced in the U.S. on 1/3/75.

House bill

Changes date of production to 1/3/85.

Senate bill

The 50-percent-of-imports competitive need limit (after application of subsection (c)(2)) does not apply if a like or directly competitive article was not produced in the United States on January 3, 1985.

Conference agreement

Senate provisions.

3. No domestic production exception

Present law

The 50-percent-of-imports competitive need limit does not apply if a like or directly competitive article was not produced in the United States on 1/3/75.

House bill

Changes date of production to 1/3/75.

Senate bill

The 50-percent-of-imports competitive need limit does not apply if a like or directly competitive article was not produced in the United States on the earlier of—

a. January 3, 1985, or

b. January 1 of the calendar year for which the 50 percent limitation determination is being made.

Conference agreement

Senate provision.

4. De minimis waiver

Present law

President may waive 50-percent-of-imports competitive need limit if total imports of the particular article in the preceding year did not exceed $1 million.

House bill

Changes de minimis level to $5 million.

Senate bill

No provision.

Conference agreement

House provision.

5. d. Redesignation of articles.

Present law

A country may be redesignated in a later year for GSP on a particular eligible article if its exports of the article did not exceed the competitive need limits in the preceding calendar year.

House bill

Permits redesignation only after 2 calendar years.

Senate bill

No provision.

Conference agreement

House recedes.

5. e. Time period for implementing changes in GSP treatment relating to competitive need limits.

Present law

Changes in article designation go into effect not later than 90 days after the close of preceding calendar year.

House bill

Changes would be effective not later than July 1.

Senate bill

No provision.

Conference agreement

House provision.

6. Agricultural Exports (sec. 507 of House bill)

Present law

No provision.

House bill

Requires U.S. assistance to BDC's to assure adequate production of foodstuffs for their citizenry.

Senate bill

No provision.

Conference agreement

House provision.

7. Effective Date (sec. 508 of House bill; sec. 509 of Senate bill)

Present law

Existing program terminates 1/3/85.

House bill

Effective 1/4/85.

Senate bill

Identical provision.

Conference agreement

Identical provisions.

TITLE VI: AMENDMENT TO THE COUNTERVAILING DUTY (CVD) AND ANTIDUMPING (AD) LAWS

1. Clarification of Coverage (likely sales, leasing) (sec. 711 of House bill; secs. 210, 716, 717, 718, of Senate bill).

Present law

Section 701(a) states the general rule that a CVD shall be imposed where (1) the administering authority finds a subsidy with respect to merchandise "*imported* into the United States" and (2) the ITC finds that an industry is materially injured or threatened with such injury "by reasons of *imports* of that merchandise." Section 731 requires the administering authority to determine in AD investigations that "foreign merchandise is being, or is likely to be *sold* in the United States at less than its fair value". [Emphasis added]

House bill

a. Amends section 701(a) and 705(b)(1) to clarify that the CVD and AD laws cover sales and likely sales, as well as imports that have already occurred; amends sections 701(a) and 731 to include certain leases.

b. No provision.

c. No provision.

Senate bill

a. Section 210 is identical; section 716 is identical, except it also includes the language on likely sales in sections 731, 735(b), 703(a), and 733(a).

b. Amends sections 702 and 732 to add a special rule that the existence of sales for future delivery or irrevocable offers to sell may be basis for an affirmative CVD or AD determination.

c. Amends sections 702 and 732 to add a special rule that the absence of a history of imports in sufficient volume to be a present cause of injury shall not be a basis for not initiating an investigation, if a sufficient allegation of threat of injury is made.

Conference agreement

The Conferees agreed to the Senate provision with modifications. The modifications are the deletion of references in the Senate provision to sections 703(a) and 733(a) and section 702 and 732.

2. Settlement Agreement Authority

Present law

The administering authority may suspend a CVD or AD investigation under section 704(b) or 734(b) at any time before its final determination if the government of the subsidizing country agrees, or exporters who account for substantially all of the imports of the subsidized or dumped merchandise agree (1) to eliminate the subsidy completely or to offset completely the amount of the net subsidy on exports to the United States within six months after the suspension; (2) to raise the price competely to eliminate any dumping margin; or (3) to cease exports of the merchandise to the United States within six months after the suspension. No CVD or AD suspension agreement can be accepted unless the quantity exported during the 6-month period will not exceed the quantity exported during the most recent representative period.

2.a. Offsets (sec. 712 of House bill; sec. 705 of Senate bill)

House bill

Eliminates the authority to suspend CVD investigations based on offsets of net subsidies by the foreign government or exporters.

Senate bill

Requires verification of any amount, including offsets, subtracted from gross subsidy to determine net subsidy.

Conference agreement

The Conferees agreed to the Senate provision.

2. b. 6-month grace period (sec. 712 of House bill)

House bill

Removes the 6-month grace period for eliminating subsidies or dumping margins under suspension agreements.

Senate bill

No provision.

Conference agreement

The Conferees agreed to strike the House provision.

2. c. *Quantitative restriction agreements* (sec. 712 of House bill; sec. 611 of Senate bill)

Present law

In "extraordinary circumstances," the administering authority may *suspend* a CVD investigation under section 704(c) before its final determination upon acceptance of an agreement from the government to eliminate completely the injurious effects, which may take the form of a quantitative restriction agreement to restrict the volume of imports. Before *suspending* any CVD of AD investigation, sections 704(e) and 734(e) require the administering authority to (1) notify and consult the petitioner of its intention, and give 30 days advance notice to other parties and to the ITC; (2) provide a copy and explanation of the proposed agreement to the petitioner; and (3) permit all parties to submit comments and information. No form of *suspension* agreement can be accepted unless the administering authority is satisfied suspension is in the public interest and effective U.S. monitoring of the agreement is practicable. Upon withdrawal of the petition the administering authority may *terminate* a CVD or AD investigation under section 704(a) or 734(a) after notice to all parties to the investigation; law does not specify basis or criteria.

House bill

Requires the administering authority to take various public interest factors (impact on consumer prices, supplies international interests, industry competitiveness), into account and consult with potentially affected consumers, industries, producers, and workers prior to deciding whether to *terminate or suspend CVD investigations or to terminate AD investigations based on quantitative restriction agreements.*

Senate bill

Permits comments on any form of proposed CVD and AD suspension agreements from all interested parties, rather than only all parties to the investigation.

Conference agreement

The Conferees agreed to both House and Senate provisions.

2. d. AD quantitative restriction agreements (sec. 713 of Senate bill)

Present law

In "extraordinary circumstances," the administering authority may suspend an AD investigation under section 734(c) before its final determination upon acceptance of an agreement to revise prices from exporters accounting for substantially all of the imports that will eliminate completely the injurious effects, prevent domestic price suppression or undercutting, and the dumping margin for each entry of each exporter does not exceed 15 percent of the weighted average margin for all entries of the exporter. Unlike CVD cases, the administering authority is not authorized to suspend AD investigations on the basis of quantitative restriction agreements.

House bill

No provision.

Senate bill

Authorizes AD quantitative restriction agreements with governments or exporters on imports if they will eliminate the injurious effects; provides authority to prescribe regulations to enforce the limits.

Conference agreement

The Conferees agreed to strike the Senate provision.

2. e. Termination of investigations (sec. 610 of Senate bill)

Present law

No specific provision.

House bill

No provision.

Senate bill

Authorizes the administering authority to terminate CVD or AD investigations it self-initiates.

Conference agreement

The Conferees agreed to the Senate provision.

2. f. Notification of Customs (sec. 712 of House bill)

Present law

No provision.

House bill

Requires notification of the Commissioner of Customs if the administering authority considers violation of an agreement to be intentional.

Senate bill

No provision.

Conference agreement

The Conferees agreed to the House provision.

3. Negotiation, Expiration of Quantitative Restriction Agreements (sec. 713 of House bill)

Present law

Section 751(b) requires the administering authority or the ITC to review any suspension agreement or affirmative determinations whenever it receives information or a request showing changed circumstances sufficient to warrant a review. If the ITC determines a suspension agreement no longer eliminates completely the injurious effect of imports, the administering authority and the ITC proceed with the investigation as if the agreement had been violated on that date. No provision of present law requires negotiations to eliminate the subsidy or dumping margin while the agreement is

in effect, or imposition of CVDs or AD duties upon its expiration equal to any remaining injurious subsidy or dumping.

House bill

a. Requires that within 90 days after any quantitative restriction agreement is in effect the President enter negotiations with foreign governments to seek complete elimination of the subsidy or dumping practices or of their injurious effects; agreement can only be modified within one year if actions taken are satisfactory and public comment taken into account.

Senate bill

No provision.

House bill

b. CVD or AD duties in the amount of any residual subsidy or dumping margin on injurious imports may replace the quantitative restriction agreement if it expires.

Senate bill

No provision.

Conference agreement

The Conferees agreed to the House provision on item 3 with a modification by requiring consultations rather than negotiations.

4. Persistent Dumping Procedure (sec. 714 of House bill)

Present law

Section 732(a) requires the administering authority to self-initiate an AD investigation whenever it determines, from information available to it, that a formal investigation is warranted. There is no formal requirement regarding monitoring of products subject to existing AD orders to determine whether self-initiation with respect to additional suppliers is warranted.

House bill

Establishes a procedure for the administering authority and the ITC to monitor imports from additional supplier countries for up to one year in order to determine whether self-initiation of additional dumping cases is warranted.

For monitoring to be required, three conditions must be met: (1) there has been a prior case on the product within the previous two years resulting in final affirmative determinations of dumping and injury; (2) the petitioner must file a formal petition on imports of the same product from another country; (3) the subsequent petition must also allege the elements necessary to impose AD duties exist on the same product, imported or likely to be imported, from one or more additional supplier countries.

Senate bill

No provision.

Conference agreement

The Conferees agreed to the House provision with certain modifications, which would permit the administering authority in its discretion to monitor allegedly dumped imports from additional supplier countries.

5. "Natural Resource Subsidies" (sec. 715 of House bill)

Present law

Any domestic subsidy described in section 771(5) may be subject to a CVD action if it is provided or required by government action to a specific enterprise, industry, or group thereof. Thus, a domestic subsidy involving natural resources may be countervailed, if it meets the specific industry test and is a subsidy of the kind described in section 771(5).

House bill

Includes "natural resource subsidies" under CVD law if they meet the following conditions: (1) a government-regulated or controlled entity sells natural resource products to its own producers at prices which, by reason of such regulation or control are lower than the export price or the fair market value in the exporting country, whichever is appropriate; (2) the internal price must not be one which is freely available to U.S. producers for purchase and export to the U.S. market; and (3) the resource product must constitute a significant portion of the production costs of the final product subject to the investigation. The level of a natural resource subsidy for CVD purposes is the difference between the domestic price and the export price of the natural resource product; if there are no significant exports or the export price is distorted by government manipulation, the administering authority must measure the subsidy by comparing the domestic price to the "fair market value".

Senate bill

No provision.

Conference agreement

The Conferees agreed to strike the House provision.

6. "Upstream Subsidies" (sec. 715 of House bill; sec. 710 of Senate bill)

Present law

Section 771(5) defines the term subsidy as having the same meaning as the term "bounty or grant" as that term is used in section 303 of the Tariff Act of 1930, including, but not limited to, specific export and domestic subsidy practices listed. This term has never been explicitly defined to include or exclude subsidies bestowed on products at prior stages of manufacture or production. The list of domestic subsidies under section 771(5) does not explicitly refer to subsidies at prior stages, but does not refer to indirect subsidies. Recent decisions by the Department of Commerce have indicated some degree of coverage of subsidies at prior stages of manufacture or production.

House bill

a. Defines an "upstream subsidy" as a practice described in present law which (1) is paid or bestowed by a government on a product subsequently used to manufacture or produce in that country merchandise which itself becomes the subject of either a CVD or AD investigations; (2) results in a price for the intermediate product lower than the generally available price of that product in that country (adjusted to offset artificial depression due to any subsidies or dumping); and (3) has a significant effect on the cost of manufacturing or producing the final merchandise. The amount of such subsidy included in any CVD or AD duty on the final product is equal to the difference between the price for the intermediate product and the generally available price of that product in that country, adjusted for any artificial price depression.

Senate bill

a. Definition of upstream subsidy is the same. However, the provision is narrower in scope because the administering authority would only be requried to investigate and assess upstream subsides in CVD cases, rather than in both CVD and AD cases.

Conference agreement

The Conferees agreed to a modified provision which would (1) substitute for generally available price determination a determination that the upstream subsidy in the judgment of the administering authority bestows a competitive benefit on the merchandise; (2) provide greater discretion in adjusting for artificial price depression by referring to prior Commerce Department determinations; (3) establishes "reasonable grounds to believe" standard for Commerce Department investigations; and (4) permits extension of time period to enable Commerce Department to fully investigate upstream subsidy cases.

House bill

b. Foreign countries organized into any customs union would be treated as one country.

Senate bill

b. Customs unions would be treated as one country if the subsidy is provided by the customs union.

Conference agreement

The Conferees agreed to the Senate provision.

The provision does not affect the basic definition of subsidy in any way. The potential for an upstream subsidy exists only when a sector-specific benefit meeting all other criteria for being a subsidy is provided to the input producer. Further, the provision is limited to subsidies bestowed by the country in which the final product is manufactured.

7. "Downstream Dumping" (sec. 715 of House bill; sec. 712 of Senate bill)

7. a. Definition

Present law

No provision.

House bill

If a product subjects to a CVD or AD investigation includes materials or components: (1) which are dumped (i.e., sold below their foreign market value); (2) with a purchase price lower than their generally available price (adjusted to offset artificial depression due to any subsidies or dumping) in the country where the final product is manufactured; and if (3) the resulting price difference has a significant effect on the cost of manufacturing or producing the merchandise under investigation, an amount attributable to "downstream dumping" would be added to the CVD or AD duty on the final product, calculated as the difference between the purchase price of the input and its generally available price (adjusted, if appropriate, for artificial depression) in the country producing the final product.

Senate bill

Same definition of downstream dumping in substance, but narrower in scope since it applies only to merchandise subject to AD investigation rather than in both CVD and AD cases. In downstream dumping cases, required determination of the constructed value of the final product, including the amount of downstream dumping in the calculation of the cost of materials or components. That amount cannot be greater than the amount by which the foreign market value of the input exceeds its purchase price.

Conference agreement

The conferees agreed to strike the House provision and the Senate provision.

7. b. Time periods

Present law

Administering authority must make preliminary determination (PD) under section 731 within 160 days after petition filed (within 210 days if case extraordinarily complicated). Final determinations under section 735 must be made within 75 days after PD, or 135 days if postponed by request.

House bill

No provision.

Senate bill

Extends the time period for preliminary determinations (PD) in AD cases from 160 to 250 days (from 210 to 310 days in complicated cases) after the petition is filed, if the administering authority concludes such additional time is necessary to determine downstream dumping.

Extends time period for final determinations. (FD), if the administering authority finds it necessary for downstream dumping determination, from 75 to 165 days (from 135 to 225 days if postponed) if PD on downstream dumping was negative. If PD was af-

firmative, final determination on downstream dumping need not be made until conclusion of the first annual review of the AD order; or, at the option of the petitioner, the time period for FD is extended to 165 or 225 days to include downstream dumping determination, but the suspension of liquidation terminates 120 days from the PD and cannot be resumed until publication of an AD order.

Conference agreement

The Conference agreed to strike the House provision and the Senate provision.

8. Cumulation (sec. 715 of House bill; sec. 703 of Senate bill)

Present law

Under section 771(B) the ITC, in making its determination of material injury, is required to assess both the volume of imports of the merchandise subject to investigation and the consequent effects of such imports. The decision to cumulate is made on a case-by-case basis and is solely within the discretion of each individual Commissioner. This practice has neither been ratified nor prohibited by statute.

House bill

Requires that the ITC cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if the imports compete with each other and with like products of the domestic industry in the U.S. market.

Senate bill

Requires cumulation of imports from countries subject to final orders, as well as countries under investigation, if the ITC determines (1) the marketing of such imports is reasonably coincident, and (2) imports from each source have contributed to the overall material injury.

Conference agreement

The Conferees agreed to the House provision. The provision requires cumulation of imports from various countries that each account individually for a small percentage of total market penetration but when combined may cause material injury. The conferees do intend, however, that the marketing of imports that are accumulated be reasonably coincident. Of course imports of like products from countries not subject to investigation would not be included in the cumulation.

9. "Threat of Material Injury" Criteria (sec. 715 of House bill; sec. 704 of Senate bill)

Present law

In making material injury determinations the ITC must consider, among other factors on a case-by-case basis, (1) the volume of imports of the merchandise, (2) the effect of such imports on prices in the United States for like products, and (3) the impact of such imports on domestic producers of like products. In determining whether there is a *threat* of material injury in *CVD* investigations, the ITC must consider such information as may be presented by

the administering authority on the nature of the subsidy and the effects likely to be caused by the subsidy. *There are no other factors specified in present law* for determining the threat of material injury.

House bill

Adds criteria the ITC must consider in determining whether there is a probability the merchandise (whether or not actually being imported at the time) will be the cause of actual injury based on any demonstrable adverse trend, including such factors as:

(1) an increase in production capacity in the exporting country likely to result in a significant increase in exports of the merchandise to the United States;

(2) a rapid increase in the U.S. market penetration and the likelihood such penetration will increase to an injurious level;

(3) the likelihood that imports will enter at prices that will have a depressing or suppressing effect on domestic prices; or

(4) a substantial increase in inventories in the United States.

Senate bill

Same provision in substance, except:

(1) also includes any increase in existing unused capacity;

(2) refers to "probability" instead of the "likelihood";

Includes two additional factors for consideration:

(1) the presence of underutilized capacity for producing the merchandise in the exporting country; and

(2) the potential for product-shifting if production facilities owned or controlled by foreign manufacturers which can be used to produce products subject to AD or CVD investigations or final orders are also used to produce the merchandise under investigation.

Conference agreement

The Conferees agreed to strike the House provision.

This provision provides guidance to the ITC for its determination of threat of material injury. The provision lists certain factors to be considered by the ITC in assessing whether dumped or subsidized import pose a real and imminent threat to the U.S. industry.

The Managers believe that an effective threat of material injury provision is a vital element of the antidumping and countervailing duty laws of the United States. The purpose of the threat provision is to prevent actual material injury from occurring.

As stipulated in the legislative history of the Trade Agreements Act of 1979, determination on the basis of threat cannot be made on the basis of mere supposition and conjecture, and sufficient information must exist for concluding that the threat of injury is real and actual injury is imminent.

The Managers recognize that the projection of future events is necessarily more difficult than the evaluation of current data. Accordingly, a determination of threat will require a careful assessment of identifiable current trends and competitive conditions in the marketplace. This will require the ITC to conduct a thorough, practical, and realistic evaluation of how it operates, the role of imports in the market, the rate of increase in unfairly traded imports,

and their probable future impact on the industry. This assessment may show, for example, that the volume of unfairly traded imports is increasing and that industry is vulnerable to future harm. Alternatively, it may show that imports are not likely to increase to an injurious level or that the industry is able to sustain relatively high levels of import competition without apparent harm.

10. Interested Parties (sec. 715 of House bill; secs. 604, 708 of Senate bill)

Present law

Section 771(9) defines the term "interested party" for standing to file petitions on particular merchandise as (1) a foreign manufacturer, producer, or exporter, or U.S. importer, or a trade or business association, a majority of whose members are importers; (2) the foreign government; (3) a manufacturer, producer, or wholesaler of a like product; (4) a union or group of workers representative of an industry manufacturing, producing or wholesaleing a like product; and (5) a trade or business association, a majority of whose members manufacture, produce, or wholesale a like product.

House bill

Expands the definition of an interested party with standing to file AD or CVD petitions to include coalitions of firms, unions, or trade associations that have individual standing.

Senate bill

Identical provision except does not make conforming changes in title 28, USC.

Conference agreement

The Conferees agreed to adopt the House provision.

The purpose of the amendment is to broaden the class of an interested party which has standing to file petitions under the countervailing duty or antidumping laws. This standing requirement would be met as long as a majority of the combined membership of the coalition individually meets the standing requirements under present law and represents the industry producing the like product. This provision is intended to overturn the decision of the Court of International Trade in *Matsushita Electrical Co.* v. *United States,* 529 F. Supp. 664 (CIT 1981).

11. Simultaneous Investigations

11.a. Hearings (sec. 716 of House bill; sec. 605 of Senate bill)

Present law

Section 774(a) requires the administering authority and the ITC each to hold a hearing before making their final CVD or AD determinations, upon the request of any party to the investigation.

House bill

If investigations are initiated under both laws within 6 months of each other but before a final injury determination in either case regarding the same merchandise from the same country, only one ITC hearing would be required. The ITC could require a hearing in

extraordinary circumstances and would allow submission of additional relevant written comments.

Senate bill

Identical, except the ITC could require hearings during each investigation in "special" rather than "extraordinary" circumstances.

Conference agreement

The Conferees agreed to the Senate provision.

11.b. Time periods (sec. 709 of Senate bill)

Present law

In normal cases, preliminary CVD determinations are required within 85 days, final determination within 75 days thereafter; AD preliminary determinations are required within 160 days, final determinations within 75 days thereafter. Time periods are extended in extraordinary complicated cases.

House bill

No provision.

Senate bill

If a CVD investigation is initiated simultaneously with an AD investigation on the same merchandise from the same countries, the administering authority, if requested by the petitioner, shall extend the date for the final CVD determination to the date of the final AD determination.

Conference agreement

The Conferees agreed to the Senate provision.

12. Verification of Information

12.a. CVD Preliminary determinations (sec. 609 of Senate bill)

Present law

No provision in CVD cases. Section 733(b)(2) provides a procedure in AD cases whereby the administering authority makes a preliminary determination within 90 rather than 160 days if sufficient information is received in the first 60 days and the petitioner and each interested party waives verification of that information.

House bill

No provision.

Senate bill

Provides for expedited CVD preliminary determinations upon waiver of verification similar to the procedure under section 733(b)(2) for AD cases, except the review would occur within 55 (rather than 75) days based on information received within first 50 (rather than 60) days.

Conference agreement

The Conferees agreed to adopt the Senate provision.

12.b. Annual review/revocation (sec. 717 of House bill)

Present law

The administering authority is required by section 776(a) to verify all information relied upon in making a final CVD or AD determination. If verification is not possible, the administering authority uses the best information available to it for making the determination. Verification is not required by statute in annual review proceedings under section 751. However, the administering authority normally verifies information where it believes there is a significant issue of law or fact.

House bill

Requires verification of information whenever the administering authority revokes a CVD or AD order.

Senate bill

No provision.

House bill

Requires verification of information used in annual reviews and of outstanding CVD and AD orders if timely requested by an interested party; such verification is not required if it has occurred upon timely request in the two immediately previous annual reviews, except for good cause shown.

Senate bill

No provision.

Conference agreement

The Conferees agreed to adopt the House provision. This amendment generally codifies the current administrative practice of the Department of Commerce. As under current law, the administering authority is authorized to use the best information available as the basis for its action if it does not receive timely, complete, or accurate responses, or if it is unable to verify the accuracy of the information submitted. The express reference in the statute to the use of information submitted in support of the petition as the best information available for purposes of final determinations in investigations should not be interpreted as precluding the administering authority from using the best information available for purposes of administrative reviews.

13. Confidential Information

13.a. Release (sec. 718 of House bill; sec. 606 of Senate bill)

Present law

Information submitted to the administering authority or the ITC designated as confidential cannot be disclosed to any person (other than those directly concerned with carrying out the investigation) without the consent of the person submitting it unless pursuant to a protective order upon receipt of an application which describes the information requested and reason for the request. Legislative history states the expectation that disclosure generally will be made only to attorneys who are subject to disbarment from practice before the agency.

House bill

Permits release of confidential information to an officer or employee of the U.S. Customs Service directly involved in conducting an investigation regarding fraud; provides a standardized procedure for requesting confidential treatment and obtaining release of confidential information; and precludes any distinction between corporate and retained counsel in ITC and administering authority regulations governing issuance of protective orders.

Senate bill

Identical provision in substance, except does not include provision removing the distinction between corporate and retained counsel in issuance of protective orders.

Conference agreement

The Conferees agreed to the Senate provision.

13.b. Definition of terms (sec. 622 of Senate bill)

House bill

No provision.

Senate bill

Substitutes term "proprietary business" for "confidential" throughout section.

Conference agreement

The Conferees agreed to the Senate provision.

14. Judicial review

Present law

Title V of the Tariff Act of 1930, as amended by Title X of the Trade Agreements Act of 1979, provides for judicial review of CVD and AD proceedings initially in the U.S. Court of International Trade (CIT). The Court of Appeals for the Federal Circuit may review the CIT's decision on an appeal. Under section 516A, certain determinations by the administering authority are reviewable by the CIT prior to the issuance of a final determination or the publication of a final order, i.e., certain interlocutory determinations are reviewable immediately even though the administrative proceeding has not been concluded. Those interlocutory findings which may be reviewed immediately include a negative preliminary determination by the administering authority under section 703(a) or 733(a), a determination that a case is "extraordinarily complicated" under section 703(c) or 733(c), and any annual review determinations under section 751.

14.a. Interlocutory appeals (sec. 720 of House bill)

House bill

(1) Eliminates all interlocutory judicial reviews by the U.S. Court of International trade during the course of CVD and AD investigations. All challenges to agency determinations would be combined and reviewable by the court after final agency action has been taken.

Senate bill

(1) No provision.

House bill

(2) Clarifies when negative portions of affirmative determinations may be reviewed: any part of a final affirmative determination by the administering authority which specifically excludes any company or product may, at the option of the appellant, be treated as a final negative determination and may be subject to appeal within 30 days of publication; other negative aspects of an affirmative determination would be appealable within 30 days after publication of a final order, and if an appellant so chooses, appeal of those portions of an affirmative finding which exclude a product or a company may also be appealed within 30 days of publication of a final order, instead of within 30 days of the determination.

Senate bill

(2) No provision.

House bill

(3) Clarifies that a final affirmative determination by the administering authority may be contested when an appeal is based on a negative determination by the ITC that is predicated on the size of the dumping margin or net subsidy.

Senate bill

(3) No provision.

Conference agreement

The Conferees agreed to the House provision.

14.b. Court of International Trade (sec. 603 of Senate bill)

House bill

No provision.

Senate bill

Eliminates the U.S. Court of International trade from judicial review of determinations so all appeals go directly to the Court of Appeals for the Federal Circuit; makes conforming changes in section 2639(a)(1) and 2647 of 28 U.S.C.

Conference agreement

The Conferees agreed to strike the Senate provision.

15. Assessment of CVDs (sec. 711 of Senate bill)

Present law

Section 706 requires publication of CVD order assessing CVD equal to amount of net subsidy determined or estimated to exist.

House bill

No provision.

Senate bill

Presumptively applies a CVD order to all merchandise from the country, except it may provide for differing CVDs if (1) the administering authority determines there is a significant differential between companies receiving subsidy benefits; or (2) a state-owned enterprise is involved.

Conference agreement

The Conferees agreed to the Senate provision.

This provision is intended to lessen the administrative burden on the administering authority stemming from implementing company-specific rates. The amendment continues to permit individual company rates for significant differences in benefits. The administering authority is expected to determine under what conditions company-specific rates are appropriate when one of the requirements of paragraph 2 are met.

16. Security in Lieu of Estimated Duty (sec. 714 of Senate bill)

Present law

Section 736(c) allows waiver of cash deposit for 90 days if administering authority is satisfied based on evidence presented by foreign producers that it can do a review of United States price and foreign market value in 90 days.

House bill

No provision.

Senate bill

Adds the following conditions which must be met before the administering authority may permit posting of bond or other security in lieu of deposit of estimated AD duties:

1. the case was not designated extraordinarily complicated or the final determination was not postponed;

(2) the party provides credible evidence that the weighted average of the amount by which the foreign value exceeds the U.S. price is significantly less than the amount of such excess specified in the AD order; and

(3) the date on foreign market value and U.S. price apply to sales in the usual wholesale quantities and ordinary course of trade and the number of sales is sufficient to form an adequate basis for comparison.

Requires, before permitting posting of bond or other security, that the administering authority (1) make all confidential information available under protective order to all interested parties to the proceeding and (2) afford all interested parties an opportunity to file written comments.

Conference agreement

The Conferees agreed to strike the Senate provision.

17. Administrative Review of CVD or AD Determinations

17.a. Annual reviews (sec. 713 of House bill)

Present law

Section 751(a) requires that at least once during each 12-month period following publication of a CVD or AD order, or notice of suspension of an investigation, the administering authority must (1) review and determine the amount of any net subsidy; (2) review and determine the amount of any AD duty; and (3) review the current status of, and compliance with, any suspension agreement including the amount of any net subsidy or dumping margin involved.

House bill

Requires annual reviews of outstanding CVD or AD orders only upon request.

Senate bill

No provision.

Conference agreement

The Conferees agreed to the House provision. Item 17(a) is designed to limit the number of reviews in cases in which there is little or no interest, thus limiting the burden on petitioners and respondents, as well as the administering authority. The committee intends the administering authority should provide by regulation for the assessment of antidumping and countervailing duties on entries for which review is not requested, including the elimination of suspension of liquidation, and/or the conversion of cash deposits of estimated duties, previously ordered. Further, the administering authority should be able to revoke antidumping or countervailing duties that are no longer of interest to domestic interested parties.

17.b. Revocation (secs. 702, 707 of Senate bill)

Present law

The administering authority may revoke a CVD or AD order in whole or in part or terminate a suspended investigation after a section 751(a) review.

House bill

No provision.

Senate bill

Requires that during an ITC investigation, the party seeking revocation of an AD order have the burden of persuasion on whether there are changed circumstances sufficient to warrant revocation.

House bill

No provision.

Senate bill

Prohibits negative ITC determinations in its review of section 303 cases by request or revocation of CVD orders or termination of suspended investigations on the basis of offsets.

Conference agreement

The Conferees agreed to the Senate provision. Item 17(b) is intended to clarify the role of the ITC in review investigations under section 751 of the Traiff Act of 1930. In *Matsushita* v. *United States,* 569, F. Supp. 853 (CIT 1983), the court reviewed a decision of the ITC in *Television Receiving Sets from Japan,* Inv. No. 751-TA-2, USITC Pub. No. 153 (1981). The ITC had found that the domestic television industry would be threatened with material injury if the antidumping order on Japanese televisions were to be revoked. The court held that the ITC's review "failed to establish the continuing need for the injury determination", reasoning that "when the continued necessity for the antidumping duty is placed in question by a change in circumstances, the review required by section 751(b) must either find reason for continuation of the duty or lead to revocation." The court held that the ITC's determination was not supported by substantial evidence of threat and had not established the continued need for the antidumping order.

The Managers believe that the *Matsushita* decision incorrectly places the burden of persuasion on the domestic industry in section 751 review investigations. The effect of the *Matsushita* decision is that the ITC's investigation must establish through substantial evidence the continued need for the antidumping order. This standard creates a difficult task for the domestic industry, since the existence of an antidumping order is a discipline on the pricing practices of foreign manufactures. Because the order offsets the effects of any dumping, the order makes it difficult for the industry to show present material injury resulting from the effects of dumping or to point to present demonstrable adverse trends which establish a threat of material injury.

The purpose of section 751 review investigations is to determine whether there are changed circumstances sufficient to warrant revocation of an antidumping order. The ITC must evaluate the changed circumstances alleged to determine whether revocation is appropriate in light of current factor and conditions of trade.

In section 751 review investigations, as in all Commission antidumping and countervailing duty investigations, neither petitioner nor respondent has a burden of proof. The Commission conducts its own fact-finding in antidumping and countervailing duty investigations. The duty of the parties is to cooperate with the Commission's requests for information. The Commission, for its part, has a duty to conduct a thorough investigation within the context of the strict time constraints of the dumping and countervailing duty law and to seek the information necessary for a reasoned determination. See *Budd Company Railway Division* v. *United States,* 507 F. Supp. 997, 1003 (CIT 1980).

The absence of any burden of proof does not mean, however, that a section 751 review is without a burden of persuasion. A foreign manufacturer, after all, is subject to an antidumping order because it was previously found to have engaged in injurious dumping. For that reason, a section 751 review does not begin from an entirely neutral starting point. The party seeking revocation of the order has a burden of persuasion, in the sense that at the end of the investigation, the ITC must be convinced that revocation of the order

is appropriate. In short, the ITC must determine that, in light of the "changed circumstances," the revocation of the order will not result in material injury or threat of material injury to the U.S. industry.

18. Critical Circumstances Determinations (sec. 612 of Senate bill)

Present law

If the petitioner alleges, and the administering authority finds critical circumstances in an affirmative preliminary CVD or AD determination, suspension of liquidation applies to unliquidated entries retroactively 90 days. No explicit authority under section 705(a) or 735(a) to make affirmative critical circumstances findings in final determinations, if preliminary finding was negative.

House bill

No provision.

Senate bill

Clarifies that the final CVD or AD determination on critical circumstances may be affirmative even though the preliminary determination (PD) was negative.

If final critical circumstances determination is affirmative, then the administering authority shall—

(1) continue retroactive suspension of liquidation and posting of cash deposit or security if PD on both subsidies or dumping and critical circumstances were affirmative;

(2) apply previous suspension of liquidation and security requirement retroactively 90 days to unliquidated entries if PD on subsidies or dumping was affirmative but critical circumstances negative; or (3) apply any suspension of liquidation and security requirement under section 705(c)(1)(B) to unliquidated entries retroactively 90 days if the PD on subsidies or dumping was negative.

Conference agreement

The Conferees agreed to the Senate provision.

19. Waiver of Deposit of Estimated AD Duties (sec 613 of Senate bill)

Present law

Scope of section 736(c)(1) covers all merchandise entered into the United States as of the date of the first affirmative AD determination (i.e. whether or not sold to an unrelated purchaser which is necessary to compute price).

House bill

No provision.

Senate bill

Changes scope of section 736(c)(1) to cover only entries entered and resold to unrelated purchasers during the period between the first affirmative AD determination and the ITC's final affirmative determination.

Conference agreement

The Conferees agreed to the Senate provision.

20. Conditional Payment of CVD Duties (sec. 614 of Senate bill)

Present law

No provision.

Section 738 requires prior deposit of estimated AD duties with Customs on all entries or removal from warehouse of merchandise subject to AD order.

House bill

No provision.

Senate bill

Adds section 708, almost identical to section 738 for AD duties, requiring that estimated CVDs be deposited by importer with Customs before merchandise subject to CVD order can be removed from warehouse.

Conference agreement

The Conferees agreed to the Senate provision.

21. Drawbacks (sec. 615 of Senate bill)

Present law

Only AD duties are currently explicitly stated to be normal duties for drawback purposes; CVD duties are not addressed.

House bill

No provision.

Senate bill

Treats CVDs as well as AD duties as other customs duties for drawback purposes.

Conference agreement

The Conferees agreed to the Senate provision.

22. Duties of Customs Officers (sec. 616 of Senate bill)

Present law

In all cases where AD order been published under which entries have not been liquidated, section 739 requires customs officer ascertain and determine or estimate the foreign market value, United States price, and other information necessary to administer Title VII.

House bill

No provision.

Senate bill

Strikes section 739.

Conference agreement

The Conferees agreed to the Senate provision.

23. Commercial Quantities of Merchandise (sec. 617 of Senate bill)

Present law

Uses term "wholesale" quantities in section 771(14), (17), and section 773(a)(1) and (a)(4).

House bill

No provision.

Senate bill

Substitutes the term "commercial quantities" for "wholesale quantities".

Conference agreement

The Conferees agreed to the Senate provision.

24. Reseller's Price Transshipments

24.a. Purchase price (sec. 618 of Senate bill)

Present law

No explicit provision in section 772(b).

House bill

No provision.

Senate bill

Amends section 772(b) so a reseller's price may serve as purchase price if it is prior to the date of importation and the merchandise is for exportation to the United States.

Conference agreement

The Conferees agreed to the Senate provision.

24. b. Foreign market value (sec. 619 of Senate bill)

Present law

Under section 773 the foreign market value in an exporter's sales price situation is the price at the time of exportation of the merchandise to the United States.

House bill

No provision.

Senate bill

(1) Amends section 773(a)(1) so the foreign market value in an exporter's sales price situation is the price at the time the goods are sold in the United States to an unrelated party.

Conference agreement

The Conferees agreed to the Senate provision.

House bill

No provision.

Senate bill

(2) Adds provision to treat an intermediate country as the country from which merchandise was exported if: (1) a reseller purchases the merchandise from the manufacturer or producer; (2) the manufacturer or producer does not know the country at time of sale to the reseller; (3) the merchandise is exported by or on behalf of such reseller to a country other than the U.S.; (4) the merchandise enters the commerce of that country but is not substantially transformed; and (5) the merchandise is subsequently exported to the U.S.

Conference agreement

The Conferees agreed to the Senate provision.

25. Sampling and Averaging (sec. 719 of House bill; sec. 608 of Senate bill)

Present law

For purposes of determining foreign market value only in AD investigations, section 773(1) authorizes the administering authority to use averaging or sampling techniques whenever a significant volume of sales is involved or a significant number of price adjustments is required, and to decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

House bill

Expands the instances in which the administering authority may use sampling and averaging techniques. Authorizes the administering authority, in determining United States price or foreign market value in AD investigations under section 772 and 773 or in carrying out annual reviews of outstanding AD or CUD orders under section 751, to use averaging or generally recognized sampling techniques whenever a significant volume of sales is involved or a significant number of adjustments to price is required, and to decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

Senate bill

Identical provision.

Conference agreement

The House and Senate provisions are identical.

26. Adjustments Study (sec. 732 of House bill; sec. 607 of Senate bill)

Present law

Various statutory adjustments are provided for to obtain comparability between United States price and foreign market value for purposes of determining dumping margins.

House bill

Requires the Secretary of Commerce to undertake a study of current practices that are applied in making adjustments to purchase

price, exporter's sales price, foreign market value, and constructed value in determining dumping duties. The Secretary must complete the study within one year after the date of enactment of the bill and submit a written report to the Congress. The report would contain whatever recommendations the Secretary deems appropriate on the need and means for simplifying and modifying current adjustment practices.

Senate bill

Identical provision.

Conference agreement

The House and Senate provisions are identical.

27. Subsidies Discovered during Proceedings (sec. 620 of Senate bill)

Present law

Section 775 uses term "investigation".

House bill

No provision.

Senate bill

Substitutes term "proceeding" for "investigation".

Conference agreement

The Conferees agreed to the Senate provision.

28. Ex Parte Meetings (sec. 621 of Senate bill)

Present law

Section 777(a) requires the administering authority and the ITC to maintain a record of ex parte meetings between persons providing factual information for an "investigation" and the person making the determination or the person making a recommendation to that person.

House bill

No provision.

Senate bill

Amends section 777(a)(3) to provide that ex parte record requirement applies to "proceedings" not just investigations, and shall be written if information relating to that proceeding is presented or discussed.

Conference agreement

The Conferees agreed to the Senate provision.

29. Interest (sec. 623 of Senate bill)

Present law

Section 778 ties interest on over and under payments of AD or CVD duties to publication date of ITC affirmative determination. Interest rate is 8 percent for the rate in effect when duties determined, whichever is higher.

House bill

No provision.

Senate bill

Changes (1) date of interest payable to the date of publication of a CVD or AD order or AD findings; and (2) the interest rate to the IRC level.

Conference agreement

The Conferees agreed to the Senate provision.

30. Compromise of Cases (sec. 706 of Senate bill)

Present law

Section 617 authorizes the Secretary of the Treasury to compromise claims, upon a report by a customs officer or, district or special attorney in charge showing the facts, probability of recovery, and compromise terms.

House bill

No provision.

Senate bill

Amends section 617 not to apply to any CVD or AD duty.

Conference agreement

The Conferees agreed to strike the Senate provision.

31. Definition of Domestic Industry (see 731 of House bill; sec. 212 of Senate bill)

Present law

The term "industry" for purposes of CVD and AD investigations means the domestic producers of a "like product", and the term "like products" has been defined and interpreted to include only those products which are identical or most similar in their characteristics to the imported article. Accordingly, producers of products being incorporated into a processed or manufactured article (i.e., intermediate goods or component parts) are generally not included in the scope of the domestic industry that the ITC analyzes for the purposes of determining injury.

House bill

Defines the domestic industry for purposes of CVD or AD investigations on wine and grape products to include producers of the principal raw agricultural product, if they allege material injury or threat, as well the producers of wine and grape products. A previous petition may be refiled under the section if the purpose is to avail the petitioner of this amendment.

Senate bill

Defines the domestic industry for purposes of CVD or AD investigations on any processed agricultural product to include the producers of the principal raw agricultural products if they allege ma-

terial injury or threat thereof, as well as the producers of the processed product.

Any previous petition may be refiled under this section.

Conference agreement

Senate recedes to the House with the following modification: the provision would expire after two years.

The ITC should review the possibility of developing distinctions among the types and uses of grapes in the event that disputes in this area arise at other times.

33. References (sec. 701 of House bill; secs. 601, 701 of Senate bill)

Present law

No provision.

House bill

Amendments or repeals of particular provisions refer to provisions of the Tariff Act of 1930.

Senate bill

Identical provision.

Conference agreement

Identical provisions.

32. Effective Dates (sec. 733 of House bill; sec. 625 of Senate bill)

Present law

No provision.

House bill

Date of enactment; sections 711, 713, 714, 715, 719 apply to investigations initiated after enactment; section 720 applies to civil actions pending on or filed on or after enactment.

Senate bill

Date of enactment; sections 604, 608 apply to investigations initiated after enactment; section 603 applies to determinations after enactment.

Conference agreement

Similar to House provisions, with technical amendments to reflect changes in references to section numbers. Contains provisions related section 612(a)(1) to enable refiling of a petition to avail the petitioner of the amendment and to sunset the amendment under that section as of September 30, 1986.

Subject: Small Business Trade Assistance and Trade Monitoring

1. Trade Remedy Assistance (sec. 601 of House bill; sec. 602 of Senate bill)

Present law

No provision

House bill

Establishes a Trade Remedy Assistance Office in the ITC to provide information to the public, upon request, concerning remedies and benefits available under the various trade laws and procedural requirements.

Each agency responsible for administering these laws must provide technical assistance to small businesses (without adequate internal resources nor financial ability to obtain qualified outside assistance) to enable them to prepare and file petitions and applications.

Senate bill

Identical in substance, except it establishes the office in the Commerce Department instead of the ITC and the list of trade laws covered is illustrative, not all inclusive.

Conference agreement

House provision

2. Small Business Advocate (sec. 624 of Senate bill)

Present law

No provision.

House bill

No provision.

Senate bill

Establishes a Small Business International Trade Advocate Office in the Commerce Department to assist small businesses as (defined in Small Business Act) in preparation for, and participation in, any proceeding relating to administration of U.S. trade laws. The Advocate:

a. may, upon request, initiate a CVD or AD investigation and intervene in any AD or CVD proceeding if the small business is unable to finance initiation or participation;

b. shall have all the rights of an interested party;

c. may request the ITC to conduct not more than 3 investigations annually to assist small businesses in preparing for AD or CVD proceedings; and

d. must report to Ways and Means and Finance Committees annually on its activities.

Conference agreement

Senate recedes.

3. Targeting Monitoring Program (sec. 601 of House bill)

Present law

No provision.

House bill

Requires the ITC to establish a continuing program to monitor and analyze foreign industrial plans and policies in order to discover whether targeting subsidies are being planned or have been im-

plemented. Priority would be given to countries and product sectors in which the U.S. has significant economic or commercial interests, after consultations with other agencies and public comments. The ITC must regularly report the information to the administering authority and make non-confidential information available to the public. Each agency must provide the ITC, upon request, such information as the ITC considers necessary or appropriate to carry out these functions.

Senate bill

No provision.

Conference agreement

House recedes.

4. Industrial targeting studies (sec. 602 of House bill).

Present law

No provision.

House bill

Requires the Secretaries of Commerce and Labor, the USTR, and the Comptroller General to each undertake and submit to Congress not later than 6/1/85 a comprehensive study of problems of foreign industrial targeting including:

a. whether it is an unfair trade practice;
b. whether existing laws adequately address the subsidy element;
c. extent targeting significantly affects U.S. commerce; and
d. any recommended legislation necessary.

Senate bill

No provision.

Conference agreement

House provision.

Subject: Nonmarket Economy Imports (sections 801–803 of Senate bill)

1. Establishment of Artificial Pricing Remedy for Nonmarket Economy Imports (Sec. 801 of Senate bill)

Present law

Dumping. Antidumping duties may be imposed on imported products sold at less-than-fair value and that cause or threaten material injury to a domestic industry. Less-than-fair value is the amount by which the foreign market value exceeds the U.S. price of the product.

Subsidies. Countervailing duties may be imposed on imported products benefitting directly or indirectly from a subsidy with respect to the manufacture, production, or exportation of the product. If the country of origin is a signatory to the GATT Subsidies Code or has undertaken similar commitments, then countervailing duties will be imposed only if the subsidized product is injuring or threatening material injury to a domestic industry. However, the

Department of Commerce has determined that the countervailing duty laws cannot be applied to nonmarket economy imports. (This decision is pending judicial resolution).

House bill

No provision.

Senate bill

For products imported from nonmarket economy countries, "artificial pricing duties" may be imposed if the products are sold at an "artificial price." The artificial pricing duty is an amount by which the actual price of the product is less than the "minimum allowable import price." If the nonmarket economy country is a GATT member, a signatory to the Subsidies Code, or has undertaken similar commitments, then the imported article must be injuring or threatening material injury to the domestic industry making the like product before duties are imposed.

Conference agreement

The Conferees agreed to strike Senate provision.

2. Pricing Standard (Sec. 802 of Senate bill)

Present law

In dumping cases, foreign market value is calculated according to the following methodological hierarchy:

a. Home market prices reasonable adjusted for such differences as sales level, physical characteristics, etc.;

b. Prices of exports to countries other than the U.S., similarly adjusted;

c. Constructed value, based on adjusted material cost plus general expenses and profits;

d. For state-controlled economy countries, the home-market price of similar merchandise produced in a surrogate market economy country, or the constructed value in the surrogate.

House bill

No provision.

Senate bill

The "minimum allowable import price" means:

a. the trade-weighted average price of market economy producers of a like product in their exports to the U.S. in arms-length sales; or

b. if there are no eligible market economy producers, the constructed value of the product in a market economy country; or

c. if the price under the first method cannot be determined, then the price by which similar merchandise is sold by an eligible market economy foreign producer to the U.S., or to other countries if there are no U.S. sales.

"Eligible market economy foreign producers" are producers of like products exporting to the U.S. and not subject to antidumping or countervailing duty orders.

Conference agreement

The Conferees agreed to strike Senate provision.

3. Showing of Injury by U.S. Industry. (Sec. 801 of Senate bill)

Present law

In dumping proceedings, antidumping duties cannot be imposed unless the dumped imported articles are determined to be injuring or threatening material injury to a U.S. industry producing a like product.

In subsidy cases, injury to a domestic industry must be shown only if the imports originate in a country that is a party to the GATT Subsidies Code or has undertaken similar commitments.

House bill

No provision.

Senate bill

Material injury to a U.S. industry producing a like product must be shown only with respect to nonmarket economy countries that are members of the GATT, of the GATT Subsidies Code, or have undertaken similar commitments.

Conference agreement

The Conferees agreed to strike Senate provision.

4. Initiation of Artificial Pricing Investigation (Sec. 801 of Senate bill)

Present law

Dumping and subsidy investigations normally are initiated upon receipt of a petition from an interested party representing the industry making a product like the imported product. The Commerce Department also may self-initiate investigations.

House bill

No provision.

Senate bill

An artificial pricing investigation may be self-initiated by the Commerce Department or initiated after receipt of a petition from an interested party making a product like the imported article.

Further, if in an ongoing antidumping or countervailing duty investigation the Commerce Department determines that the industry is not market oriented, or that there is insufficient verifiable information to proceed normally, the proceeding will be converted into an artificial pricing investigation.

Conversely, if in an on-going artificial pricing investigation sufficient verifiable information is provided to determine either foreign market value or subsidization, and that the industry under investigation is market-oriented, the investigation will be converted into an antidumping or countervailing duty proceeding, as appropriate.

Conference agreement

The Conferees agreed to strike Senate provision.

5. Procedures for Conducting Artificial Pricing Investigation (sec. 801 of Senate bill)

Present law

The following are the basic elements of both dumping and subsidy investigations:

a. Commerce initiates investigation.
b. ITC begins injury investigation if Commerce initiates.
c. ITC makes preliminary determination of whether there is reasonable indication of material injury.
d. If (3) affirmative, Commerce proceeds to determine preliminarily if there is reasonable basis to believe dumping exists.
e. Commerce makes final determination.
f. If (5) is affirmative, ITC makes final determination of injury.
g. If (6) is affirmative, antidumping order is issued.

In general, the time limits for subsidy cases are shorter than for dumping cases. Also, whether the ITC conducts an injury investigation in a subsidy case depends on the country of origin of the imported product.

House bill

No provision.

Senate bill

The elements, procedures, and time limits for artificial pricing investigations are the same as for normal subsidy investigations.

Conference agreement

The Conferees agreed to strike Senate provision.

6. Effective Date (sec. 803 of Senate bill)

Present law

No provision.

House bill

No provision.

Senate bill

Petitions, requests, resolutions after date of enactment.

Conference agreement

The Conferees agreed to strike the Senate provision.

TITLE VII: AUTHORIZATION OF APPROPRIATIONS FOR FY 1985 FOR THE U.S. INTERNATIONAL TRADE COMMISSION, U.S. CUSTOMS SERVICE, AND U.S. TRADE REPRESENTATIVE

1. U.S. International Trade Commission (ITC) (sec. 801 of House bill)

Present law

Section 330(e)(1) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(1)) requires annual enactment of an authorization of appropriations for the ITC.

Section 175 of the Trade Act of 1974 (19 U.S.C. 2232) requires that the estimated expenditures and proposed appropriations of the agency be included in the President's budget without revision.

House bill

There are authorized to be appropriated for FY 1985 an amount not to exceed $28,410,000, not more than $2,500 of which may be used for entertainment expenses.

Senate bill

No provision.

Conference agreement

House provision.

2. U.S. Customs Service (sec. 802 of House bill)

Present law

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) requires annual enactment of an authorization of appropriations to the U.S. Customs Service.

House bill

For FY 1985 there are authorized to be appropriated to the Department of the Treasury for salaries and expenses of the U.S. Customs Service an amount not to exceed $686,399,000, of which $28,070,000 is for operation of the air interdiction program; no more than $11,000,000 is for implementation of "Operation Exodus" and related programs.

No part of the authorized funds may be used to pay any employee more than $25,000 in overtime pay unless waived by Commissioner to meet emergency.

Senate bill

No provision.

Conference agreement

House provision with an amendment to limit authorization for Operation Exodus to $15 million.

3. Office of the U.S. Trade Representative (USTR) (sec. 803 of House bill)

Present law

Section 141(f) of the Trade Act of 1974 authorized appropriations to the Office of the U.S. Trade Representative in such amounts as may be necessary for the purpose of carrying out its functions.

House bill

Authorizes $14,179,000 for FY 1985, no more than $68,000 of which may be used for entertainment and representation expenses.

Senate bill

Same, except, no more than $80,000 may be used for entertainment and representation expenses.

Conference agreement

House provision with an amendment to provide limit of $80,000 on entertainment and representation expenses.

TITLE VIII: STEEL

(The House bill contains only the provisions of the Steel Import Stabilization Act (previously H.R. 6301). The Senate bill contains no parallel to the Steel Import Stabilization Act, but does contain two separate and different provisions, sections 243 and 715, relating to authority to enforce trade restraints on certain steel products. In order to cover all provisions relating specifically to steel trade both Senate provisions appear under the column heading "Senate Bill" and are compared with similar provisions in the House bill.)

1. Short Title (sec. 901 of House bill)

Present law

No provision.

House bill

Steel Import Stabilization Act.

Senate bill

No provision.

Conference agreement

Senate recedes.

2. Findings (sec. 902(a) of House bill)

Present law

No provisions.

House bill

Six findings concerning need to reinvest and modernize; adverse effects of overvalued dollar, deficits, serious injury due to imports of and unfair trade in steel; difficulties of using trade remedy laws; need for expeditious action by Executive branch, including self-initiation; requirement that import relief be tied to commitment to modernize; benefits of full and effective implementation.

Senate bill

No provision.

Conference agreement

Senate recedes with an amendment to the House provision. Paragraph (a)(5) of the findings is amended to read "import relief will be ineffective and will not serve the national economic interest unless the industry during the period of relief engages in serious efforts substantially to modernize and to improve its international competitiveness."

3. Purposes (sec. 902(b) of House bill; sec. 715, 243 of Senate bill)

Present law

No provision.

House bill

To provide the President with authority to enforce bilateral restraint arrangements subject to the condition that the steel industry undertake comprehensive modernization.

Senate bill

Section 715. To monitor and enforce export measures required by a foreign government or customs union.

Section 243. To enforce the terms of the U.S.-E.C. Arrangement on Pipe and Tube.

Conference agreement

Senate recedes.

4. Sense of Congress regarding fair import share (sec. 903(1) of House bill)

Present law

No provision.

House bill

President should use this authority to restore the overall national import share to a level reflecting conditions of fair, unsubsidized competition, a level which the Congress believes should be approximately 17%.

Senate bill

No provision.

Conference agreement

Senate recedes with an amendment to the sense-of-Congress provision regarding fair import share. The conference agreement states the sense of Congress that full implementation of the national policy for the steel industry will result in a steel import market share in the range of 17.0 to 20.2 percent. This range covers the market shares identified both in the House bill and the President's national policy based on his September 18 announcement.

5. Sense of Congress regarding antitrust effects (sec. 903(2) of House bill)

Present law

No provision.

House bill

The national steel policy should not be implemented in a manner contrary to the antitrust laws.

Senate bill

No provision.

Conference agreement

Senate recedes.

6. Sense of Congress regarding future action (sec. 903(3) of House bill)

Present law

No provision.

House bill

If the President's program does not produce satisfactory results within a reasonable period of time, the Congress will consider taking future legislative action.

Senate bill

No provision.

Conference agreement

Senate recedes.

7. Definition of "bilateral arrangement" (sec. 904(1) of House bill)

Present law

No provision.

House bill

"Bilateral arrangement" means any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement) between the U.S. and any foreign country setting quantitative limitations or other restrictions on the exportation to the U.S. of carbon and alloy steel products.

Senate bill

No provision.

Conference agreement

Senate recedes with an amendment to the House provision, amending "carbon and alloy steel products" to read "steel products."

8. Definition of "steel products" (sec. 904(2) of House bill; sec. 715, 243 of Senate bill)

Present law

Section 626 applies to "steel mill products" subject to the US–EC Arrangement on Carbon Steel.

House bill

"Carbon and alloy steel products" means articles of the kinds subject to the ITC § 201 investigation (not limited only to products with injury findings) plus TSUS items 652.97 (offshore oil and natural gas drilling and production platforms and parts thereof made of iron or steel) and 653.00 (other fabricated structural units made of iron or steel).

Senate bill

No provision. Refers to "steel products."

Section 243 applies only to steel pipe and tube export, from the EC to the U.S.

Conference agreement

House recedes.

9. Definition of "national policy for the steel industry" (sec. 904(3) of House bill)

Present law

No provision.

House bill

"National policy for the steel industry" means those actions and elements described in Exec. Comm. 4046, dated Sept. 18, 1984 (H. Doc. 98-263), transmitting the President's decision in the section 201 carbon and alloy steel case.

Senate bill

No provision.

Conference agreement

Senate recedes.

10. Definition of "steel industry" (sec. 904(4) of House bill; sec. 715 of Senate bill)

Present law

No provision.

House bill

"Steel industry" means producers in the U.S. of carbon and alloy steel products.

Senate bill

No provision. Refers to "steel products."

Conference agreement

The conference agreement provides that the term "steel industry" means producers in the United States of steel products.

11. Enforcement Authority: General provision (sec. 905(a) of House bill; sec. 715, 243 of Senate bill)

Present law

Authorizes Sec. of Treasury to require presentation of a valid export license or other documents issued by the EC for entry into the U.S. of steel mill products subject to the U.S.-EC Arrangement on Carbon Steel.

House bill

Authorizes President to enforce the quantitative limitations and restrictions (including export measures required by a foreign government) contained in each bilateral arrangement, subject to the

annual renewal provisions. Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the U.S.

Senate bill

Section 715. Authorizes Sec. of Treasury, upon receipt of a request by the President and by a foreign government, to require the presentation of a valid export license or other documents issued by such foreign government as a condition for entry into the U.S. of steel products specified in the request.

Section 243. Authorizes Sec. of Commerce to request the Sec. of Treasury to take action to enforce the terms of the U.S.-EC Arrangement on Pipe and Tube as identified by the Sec. of Commerce. (Sec. of Commerce determines whether exports are exceeding limits or distortion among categories is occurring).

Conference agreement

11. Senate recedes with an amendment to the House provision. The conference agreement generally is based on the House provision and incorporates compromise provisions with regard to enforcement of the U.S.-EC Arrangement on Export of Steel Pipes and Tubes and short supply circumstances. The conference agreement includes the general enforcement authority contained in the House bill. The authority applies to enforcement of all "bilateral arrangements" regarding steel products. In addition, it includes specific authority with respect to enforcement of the U.S.-E.C. Arrangement on Pipe and Tube. The enforcement authority provided under section 805(b) with respect to the EC Arrangement is subject, however, to a further provision with respect to short supply or emergency economic situations. The conference agreement allows the Secretary of Commerce to permit importation of additional quantities of specific products in cases where the Secretary determines that conditions of short supply or emergency economic situations related to market demand exist, including but not limited to demand for specific products that will be used in processing or further production. Conditions of short supply or emergency economic situations shall not be deemed to exist, however, solely because domestic producers are unwilling to supply products at prices below their costs of production. What constitutes domestic producers' cost of production shall be determined by the Secretary of Commerce. The purpose of this short supply provision is to permit existing restrictions on steel imports to be revised or temporarily altered, for example, when supplies of certain steel products from domestic and other suppliers are unable to meet the market demand for such products by domestic purchasers (including processors and fabricators). Domestic suppliers shall not be considered unable to meet such market demand, however, solely on the basis of their unwillingness to sell their products at prices below their costs of production. This provision is designed to protect domestic purchasers of steel products from undue hardship due to an inability to obtain adequate supplies from domestic sources.

12. Enforcement Authority: Application (sec. 905(b) of House bill; sec. 243 of Senate bill).

Present law

No provision.

House bill

President shall use enforcement authority, to the extent practicable, to cover all product categories, avoid distortions among categories, and cover all countries from which surges in steel exports are being or have been experienced.

Senate bill

Section 243. Regarding U.S.-EC Arrangement or Pipe & Tube, Sec. of Commerce designates limitations on product categories within overall pipe and tube restriction; determines when and to what extent distortion among categories is occurring. Increases in tonnage limits with respect to appropriate categories may be authorized in cases of emergency economic situations related to domestic market demand for pipe and tube (including domestic processing and production).

Conference agreement

Senate recedes.

13. Enforcement Authority: Regulations (secs. 243, 715 of Senate bill)

Present law

Authorizes Sec. of Treasury to provide by regulations for terms and conditions under which steel mill products from the EC attempted to be entered into the U.S. without a valid export license or other document may be denied entry into the U.S.

House bill

No provision.

Senate bill

Sections 243, 715. Authorize the Sec. of Treasury to provide by regulation for terms and conditions under which steel products may be denied entry into the U.S.

Conference agreement

House recedes.

14. Enforcement authority: Duration (sec. 906(a) of House bill)

Present law

No provision.

House bill

Limited to five years, subject to annual renewal provisions.

Senate bill

No provision.

Conference agreement

Senate recedes.

15. Enforcement Authority: Annual renewal (sec. 906(a) of House bill)

Present law

No provision.

House bill

In order for enforcement authority to renew for an additional year, President must submit, prior to year-end, an affirmative determination to Ways & Means and Finance, in writing and with reasons for decision. If no such determination is submitted enforcement authority terminates (permanently).

Senate bill

No provision.

Conference agreement

Senate recedes.

16. Annual Determination: Basic test (sec. 906(b)(1) of House bill)

Present law

No provision.

House bill

President must determine that the domestic steel industry, taken as a whole, has, during the previous year, (a) committed substantially all of its net cash flow steel operations to reinvest in and modernization of the steel industry; and (b) taken sufficient action to maintain its international competitiveness, including discipline of costs and prices.

Senate bill

No provision.

Conference agreement

Senate recedes with an amendment to the House provision. The conference agreement includes an overall requirement that the major companies, taken as a whole, commit substantially all of their net cash flow from steel operations to reinvestment and modernization of their steel operations and worker retraining programs, and that the major companies, taken as a whole, take sufficient action to maintain their international competitiveness. This provision of the conference agreement reflects a compromise with respect to the industry-wide cash flow requirement and the company-specific cash flow requirement of the House bill. The conference agreement still requires an analysis of the actions of major companies, as defined by this section, but provides that the annual determination the President must make is with respect to the major companies taken as a whole. The purposes for which net cash flow may be used are generally the same as in the House bill, except that net cash flow may not be used for purposes of payment on debt, because the definition of net cash flow was amended to provide for payment of debt.

Paragraph (1)(A)(ii) requires the major companies, taken as a whole, to take sufficient action to maintain their international competitiveness. Such action includes, but is not limited to, action to produce price- and quality-competitive products, to control costs of production, and to improve productivity. Control of costs of production includes employment costs, which refers broadly to wages, benefits and bonuses for both hourly and salaried employees. This compromise provision reflects a concern that both management and labor make significant contributions to the effort to maintain the domestic steel industry's international competitiveness.

17. Annual Determination: Company-specific cash flow requirement (sec. 906(b)(2)(A) of House bill)

Present law

No provision.

House bill

The industry-wide net cash flow requirement will not be met unless each of the major companies with significant reinvestment and modernization needs has committed all of its net cash flow (minus the amount required for worker retraining) to meet those needs.

Senate bill

No provision.

Conference agreement

House recedes.

18. Annual determination: Company-specific worker retraining (sec. 906(b)(2)(B) of House bill)

Present law

No provision.

House bill

The industry-wide net cash flow requirement will also not be met unless each of the major companies that has or reasonably anticipates significant unemployment has committed at least 1% of net cash flow to worker retraining.

Senate bill

No provision.

Conference agreement

Senate recedes with an amendment to the House provision.

The conference agreement requires the President to determine that each of the major companies, during the applicable 12-month period, committed not less than 1% of net cash flow to the retraining of workers. If the President finds that a major company is not in compliance with this provision, however, he is further authorized to waive the requirement with respect to that company, if he finds unusual economic circumstances exist with respect to that company. This waiver authority is not designed to allow companies to avoid the 1% retraining commitment, but is designed to allow

the President's general enforcement authority to renew for another year when unusual economic circumstances justify a particular company's commitment of less than 1% of net cash flow to retraining.

The types of retraining programs and assistance which may be included in the 1% commitment and the further interpretation of this requirement with respect to the phrase "retraining of workers" are set forth in House Report 98–1089 with respect to section 6 of H.R. 6301. The retraining assistance provided under this provision shall be made available to current workers and former workers of that major company who were laid off at any time since January 1, 1982.

19. Annual determination: Definition of "major company" (sec. 906(b)(3)(A) of House bill)

Present law

No provision.

House bill

"Major company" means an enterprise whose raw steel production in 1983 exceeded 1.5 million tons; reaches the 8 largest steel producers.

Senate bill

No provision.

Conference agreement

Senate recedes.

20. Annual Determination: Definition of "net cash flow" (sec. 906(b)(3)(B) of House bill)

Present law

No provision.

House bill

"Net cash flow" means annual net (after-tax) income plus depreciation, depletion allowances, amortization, and changes in reserves minus dividends.

Senate bill

No provision.

Conference agreement

Senate recedes with an amendment to the House provision. Net cash flow shall be determined according to generally accepted accounting principles. To determine net cash flow, annual net income is increased by depreciation, depletion allowances, amortization, and changes in reserves. Reserves would generally include noncash expenses such as deferred taxes or inventory reserves. In addition, annual net income is decreased by dividends and payment on short- and long-term debt and other liabilities. The conferees intend that payment on short- and long-term debt and other liabilities means the net reduction in such debt and liabilities, i.e., net

cash flow would reflect both reductions and increases in debt and liabilities.

21. Annual Determination: Source of information (sec. 906(b)(4) of House bill)

Present law

No provision.

House bill

President shall base his annual determination on information available from the ITC and other appropriate sources.

Senate bill

No provision.

Conference agreement

Senate recedes.

22. DOL Worker Assistance (sec. 907 of House bill)

Present law

No provision.

House bill

Requires the Sec. of Labor to prepare, in consultation with the tripartite Steel Advisory Committee, and submit to Congress within 6 months, a proposed plan of action for assisting workers in communities adversely affected by steel imports, including retraining and relocation assistance. Such plan shall be based on existing authorities, but also recommend additional legislative authority as necessary to carry out the purposes of the plan.

Senate bill

No provision.

Conference agreement

Senate recedes.

23. TAA Authorization (sec. 908 of House bill)

Present law

The worker and firm trade adjustment assistance programs under the Trade Act of 1974 are presently authorized through September 30, 1985.

House bill

Extends the current authorization for worker and firm trade adjustment assistance under the Trade Act of 1974 for 2 additional years, through September 30, 1987.

Senate bill

No provision.

Conference agreement

House recedes.

24. Effective Date of Act (sec. 909 of House bill)

Present law

No provision.

House bill

October 1, 1984.

Senate bill

No provision.

Conference agreement

Senate recedes.

TITLE IX: WINE

1. Short Title (sec. 1001 of House and Senate bills)

Present law

No provision.

House bill

"Wine Equity and Export Expansion Act of 1984."

Senate bill

Identical provision.

Conference agreement

House provision.

2. Congressional Findings and Purposes (sec. 1002 of House and Senate bills)

Present law

No provision.

House bill

Lists various findings concerning economic factors affecting the competitiveness of the U.S. wine and grape product industries, including restrictive foreign barriers to U.S. wine exports. The purposes of the bill are to expand wine consumer choice, to encourage wine export promotion, and to achieve greater foreign market access for U.S. wine.

Senate bill

Identical provision.

Conference agreement

House provision.

3. Definitions (sec. 1003 of House and Senate bills)

Present law

No provision.

House bill

Defines various terms used in the Act.

Senate bill

Identical provision.

Conference agreement

House provision.

4. Designation of Major Wine Trading Countries (sec. 1004 of House and Senate bills)

Present law

No provision.

House bill

Requires the USTR to designate major wine trading countries, which are significant potential markets for U.S. wine and maintain tariff and nontariff barriers to (or other distortions of) U.S. wine trade.

Senate bill

Identical provision.

Conference agreement

House provision.

5. Action to Reduce or Eliminate Tariff and Nontariff Barriers Affecting Wine (sec. 1005 of House and Senate bills)

5a. Consultations

Present law

No provision.

House bill

The President must direct the USTR to consult with each country to seek reduction or elimination of its barriers or other distortions of trade in U.S. wine.

Senate bill

Identical provision.

Conference agreement

Senate provision.

5.b. Reports

Present law

No provision.

House bill

The President must submit a report to the House Committee on Ways and Means and the Senate Committee on Finance within 13 months after date of enactment on each country concerning efforts to expand wine exports. Each report would include: (1) a description of each trade barrier; (2) an assessment of the extent each bar-

rier is subject to a trade agreement; (3) action taken or proposed under existing authority to eliminate or reduce the barrier, including, but not limited to, action under section 301 and negotiation or consultations, (4) reasons for not taking such action; and (5) recommendations to Congress on any additional authority or action necessary and appropriate.

Senate bill

Identical provision, except any action includes any action under the Trade Act of 1974 instead of reference to section 301.

Conference agreement

Senate provision

5c. Presidental Action

Present law

Section 301 of the Trade Act of 1974 provides that basic broad authority for the President to enforce U.S. rights under trade agreements and to respond to other acts, policies, or practices which are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If he determines action is appropriate the President must take appropriate and feasible action within his power to enforce such rights or obtain elimination of the act, policy, or practice, and may (1) suspend, withdraw, or prevent application of trade agreement benefits and (2) impose duties or other import restrictions.

House bill

If the President after taking into account information and advice, has reason to believe a barrier to, or other distortion of, trade in U.S. wine is a violation of or inconsistent with a trade agreement or is unjustifiable, unresonable, or discriminatory and burdens or restricts U.S. commerce, he must take action under section 301, if he determines such action is appropriate.

Senate bill

Identical provision except: (1) The President determines action is appropriate to respond to such acts, policies, or practices; and (2) all appropriate action refers to the Trade Act of 1974 instead of section 301.

Conference agreement

Senate provision.

6. Required Consultations (sec. 1006 of House and Senate bill)

Present law

No provision.

House bill

The USTR must consult with representatives of the wine and grape products industries and with the House Committe of Ways and Means and the Senate Committee on Finance on (1) identifying

countries and trade barriers; (2) preparing the report, and (3) whether section 301 action is appropriate.

Senate bill

Identical provision, except consultations on whether action is appropriate applies to any provision of the Trade Act of 1974.

Conference agreement

Senate provision.

7. U.S. Wine Export Promotion (sec. 1007 of House and Senate bills)

Present law

Section 135 of the Omnibus Budget Reconciliation Act of 1982 (OBRA) requires the Secretary of Agriculture to use not less than $175 million or more than $190 million in each of fiscal years 1983, 1984, and 1985 of funds of the Commodity Credit Corporation (CCC) for export activities authorized to be carried out by the Secretary or by the CCC, in addition to any authorities under other provisions of law.

House bill

Encourages the President to use FY 1985 funds under section 135 of the OBRA to initiate a wine export promotion program in cooperation with winery representatives, and to request an appropriation each following year for the program which is not at the expense of requests for promotion of other agricultural commodities.

Senate bill

Identical provision.

Conference agreement

House provision.

Subject: International Trade and Export Policy Study Commission (Sections 901-906 of Senate Bill)

Establishment of an International Trade and Export Policy Study Commission

Present law

No provision.

House bill

No provision.

Senate bill

Would establish an 18 member commission composed of 6 Senators, 6 Members of the House, and 6 individuals especially qualified because of "education, training, or experience . . ."

The commission would make recommendations regarding changes in the laws and regulations to stimulate exports and to provide for the removal of trade barriers.

The commission would deliver its report to the President by, and will pass out of existence on, 7/1/85.

Conference agreement

Senate recedes.

DAN ROSTENKOWSKI,
JAMES JONES,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,
KENT HANCE,
BARBER B. CONABLE, Jr.,
GUY VANDER JAGT,
BILL ARCHER,
BILL FRENZEL,

For consideration of title XI of the House amendment to the Senate amendment and sections 255, 302, 304(b)(2), 306(b), 402, and title IX of the Senate Amendment:

From the Committee on Energy and Commerce:

JOHN D. DINGELL,
JAMES J. FLORIO,
JAMES T. BROYHILL,

From the Committee on Foreign Affairs:

DON BONKER,
DAN MICA,
TOBY ROTH,

Managers on the Part of the House.

BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
JOHN DANFORTH,
LLOYD BENTSEN,
SPARK M. MATSUNAGA,

Managers on the Part of the Senate.

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